

INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE®



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William D. Jackson

Deputy Assistant U.S. Trade Representative

and Chair of the GSP Subcommittee of the Trade Policy Staff Committee

Office of the U.S. Trade Representative

1724 F Street, N.W.

Washington, D.C. 20508

Re: International Intellectual Property Alliance, *Pre-Hearing Brief, and Request to Appear at the Public Hearing on Indonesia, Regarding Generalized System of Preferences (GSP): Results of the 2011 Annual GSP Review; Notice of Hearing and Public Comments for Country Practice Petitions Accepted as Part of the 2011 Annual GSP Review*, 77 FR 41209 (July 12, 2012) (dates revised in 77 FR 49476 (August 16, 2012))

To the GSP Subcommittee:

The International Intellectual Property Alliance (IIPA) hereby submits this Pre-Hearing Brief and Request to Appear at the October 2, 2012 public hearing on the GSP country practices review of Indonesia. As you know, IIPA was the original petitioner of the GSP review of Indonesia's intellectual property rights and market access country practices petition in the 2011 Annual GSP Review process.

The IIPA witness will be:

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Sincerely,

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International Intellectual Property Alliance

Enclosure: Pre-Hearing Brief Pre-Hearing Brief of the International Intellectual Property Alliance GSP Review of the Intellectual Property Rights and Market Access Practices of Indonesia



Pre-Hearing Brief of the International Intellectual Property Alliance GSP Review of the Intellectual Property Rights and Market Access Practices of Indonesia

Before the GSP Subcommittee
Docket No. USTR-2012-0012, Indonesia

September 18, 2012

I. Introduction

In December 2011, the International Intellectual Property Alliance (IIPA)¹ submitted a petition to have the GSP status of Indonesia reviewed with respect to eligibility criteria listed in subsections 502(b) or 502(c) of the 1974 Act (19 U.S.C. 2462(b) and (c)). See 64 Fed. Reg. 20047. In particular, among the criteria the President must take into account in determining whether a country should continue to be designated as a GSP beneficiary country are “the extent to which such country is providing adequate and effective protection of intellectual property rights,” and “the extent to which such country has assured the United States that it will provide equitable and reasonable access to the markets ... of such country.” 19 USC 2462(c)(4) and (5).

In 2010, Indonesia exported goods valued at \$1.86 billion to the U.S. receiving preferential duty-free treatment under the GSP Program. This represented approximately 11.4% of its total exports to the U.S., according to U.S. government statistics. In spite of the benefits Indonesia receives from the GSP Program, IIPA believes the Government of Indonesia is not meeting the eligibility criteria due to: 1) lack of adequate and effective intellectual property rights protection and enforcement which has resulted in high, in some cases extremely high, levels of physical and online piracy; and 2) lack of equitable and reasonable access to the Indonesian market, through many statutory or, in some cases, in-practice barriers, including barriers imposed on the motion picture industry, and including a Decree issued in October 2011 that destroyed one window of revenue for the music industry.

¹The IIPA is a private sector coalition of seven trade associations representing U.S. copyright-based industries in bilateral and multilateral efforts working to improve international protection and enforcement of copyrighted materials and open up foreign markets closed by piracy and other market access barriers. IIPA’s seven member associations appear below, and represent over 3,200 U.S. companies producing and distributing materials protected by copyright laws throughout the world—all types of computer software, including business applications software and entertainment software (such as videogame discs and cartridges, personal computer CD-ROMs, and multimedia products); theatrical films, television programs, DVDs and home video and digital representations of audiovisual works; music, records, CDs, and audiocassettes; and fiction and non-fiction books, education instructional and assessment materials, and professional and scholarly journals, databases and software in all formats. Members of the IIPA include [Association of American Publishers \(AAP\)](#), [Business Software Alliance \(BSA\)](#), [Entertainment Software Association \(ESA\)](#), [Independent Film & Television Alliance \(IFTA\)](#), [Motion Picture Association of America \(MPAA\)](#), [National Music Publishers’ Association \(NMPA\)](#), and [Recording Industry Association of America \(RIAA\)](#).



Through this review, we request that the U.S. Government work with the Indonesian Government to remedy the deficiencies outlined below, and in IIPA's previous submissions,² and if, at the conclusion of the review, the Government of Indonesia has not made requisite improvements, IIPA requests that the Committee suspend or withdraw GSP benefits, in whole or in part.

II. Indonesia does not provide “adequate and effective protection” of United States copyrights

Indonesia does not meet the GSP eligibility criteria due to lack of adequate and effective intellectual property rights protection and enforcement, resulting in high, in some cases extremely high, levels of physical and online piracy. Indonesia remains a market dominated by pirated material in physical form,³ supplied or distributed online.⁴ Mall and retail piracy reportedly stands at 90% piracy,⁵ while the music industry reports an overall loss of 95% of the market in Indonesia due to piracy of all kinds – physical, Internet, and mobile.⁶ All indicators suggest that criminal syndicates support illegal production and distribution of physical piracy, and enforcement officials are reportedly reluctant to conduct regular enforcement actions because of the presence of organized criminal gangs. The widespread use of unlicensed software by businesses and other organizations causes significant harm to the business software industry in Indonesia. It is estimated that 86% of business software is unlicensed, with a commercial value of more than \$1.4 billion.⁷ Unfortunately, the situation has not improved in the past two years, notwithstanding some cooperation between right holders and Indonesian authorities. Piracy of published materials in Indonesia, especially academic books and journals, continues to be a major concern.⁸ Recent survey evidence shows over 100 points of sale for lower quality photocopies of books to higher quality bookbinding/print piracy services.

²IIPA has previously provided extensive information regarding Indonesia and its inadequate and ineffective protection for copyrights as well as its lack of equitable and reasonable access to the Indonesian market to members of various U.S. government interagency groups (including the GSP Subcommittee), plus the Special 301 interagency group and the Trade Policy Staff Committee, in the context of USTR's Annual Special 301 review. For IIPA's 2012 Special 301 review of Indonesia related to copyright protection and enforcement, as well as market access issues, please see International Intellectual Property Alliance, *Indonesia*, February 10, 2012, at <http://www.iipa.com/rbc/2012/2012SPEC301INDONESIA.PDF>.

³Indonesia's notorious markets remain replete with retail piracy in kiosks and malls including factory and burned-to-order CDs, VCDs, DVDs, and CD-ROMs of music, movies (including pirate movies in or claiming to be Blu-ray), business software, videogames, and published materials. Also problematic are mobile device piracy (loading illegal copyrighted files onto various mobile devices or carriers) and hard disk loading, in which computers are loaded with the latest software or other copyright materials – all of it unauthorized – at the point of sale of the hardware. Burned recordable optical discs well outnumber factory discs now due to the lower expenses involved and ease of production out of the home.

⁴Internet usage in Indonesia reached 39.6 million users as of December 2010, or 16.1% of the population, and has grown steadily over the past several years. Broadband penetration has been slower, mainly due to infrastructure difficulties, and by mid-2011, was just over two per cent of the population (5 million).

⁵Major cities including Jakarta, Padang, Java Island, Semarang, Medan, Makassar, Bandung, and Surabaya have hotspots replete with pirate materials. Notorious markets in 2011 included Harco Glodok, Ratu Plaza, Pinangsia Plaza, and Ambassador Mall/ITC, and Mangga Dua Mall. Other notorious spots in the Jakarta area include Glodok Penampungan, Jalan Pinangsia, and Glodok Jakarta. Harco Glodok was listed by USTR as a “notorious market” in its Out-of-Cycle Review of Notorious Markets, published December 20, 2011.

⁶Wireless broadband is increasingly popular among the youth market, and the mobile subscriber base has exploded in recent years – now over 180 million as of March 2011.

⁷See Business Software Alliance, *Shadow Market, 2011 BSA Global Software Piracy Study*, Ninth Edition, May 2012, at http://portal.bsa.org/globalpiracy2011/downloads/study_pdf/2011_BSA_Piracy_Study-Standard.pdf.

⁸Commercial-scale photocopying (mainly on and near university campuses) remains the primary challenge to publishers, in addition to print piracy and unauthorized translations. Most copy centers provide catalogs to facilitate the business of copying academic texts for students, with shops operating on a “print to order” basis based on customer demand, thus avoiding the stockpiling of illegal copies.



Online and mobile piracy has become a serious problem in Indonesia, including direct download sites and illicit P2P file sharing, mainly from servers located outside Indonesia.⁹ Some of the most notorious piracy websites in the world are servicing the Indonesian market,¹⁰ while more than 260 websites in all are known to provide links to unauthorized Indonesian sound recording files which subsequently locate overseas cyberlockers.¹¹ *4Shared.com* and *mediafire.com* are both among the top 20 websites accessed in Indonesia.

Internet and mobile penetration continued to deepen in 2011, but the Government of Indonesia did little to address the growing concerns of online and mobile piracy. To our knowledge, there has never been an Internet (or mobile device) piracy case investigated or brought by the Indonesian Government.¹² The problem of Internet piracy could be addressed with a more coordinated and cooperative approach between right holders and intermediaries. However, ISPs currently have no mandatory legal requirements to address infringing activities on their networks. While some discussions have ensued between right holders and Internet service providers, unfortunately, the ISP community maintains they are not associated with infringing activity, and therefore, should not be held liable. ISPs a couple years ago participated in a focus group meeting with right holders hosted by the Indonesia ISP Association (APJII). Issues such as the use of offshore servers were agreed to pose challenges under the current laws (for example, such activity is not covered under the current Cyber Law).

In July 2011, the Ministry of Information and Communication announced that it would be seeking to block access in Indonesia to websites that distribute pirated files, indicating *4shared*, which it said is a high-capacity website that provides videos, music and graphics, violating Indonesian Government regulations on copyright. The Minister also indicated that as part of the “Hail Our Music” initiative, the music industry and ISPs would cooperate to seek closure of the most notorious sites (most of which are local services).¹³ The Motion Picture Association and local film industry groups, including exhibitors, distributors and producers have also met numerous times with the Ministry of Information and Communication and the IP Office in 2012 seeking to block notorious sites, and while initially cooperation was forthcoming, in recent

⁹Local industry statistics indicate that every second, almost 100 local songs are illegally downloaded via the Internet in Indonesia. The hope for local distributors is legitimate services which employ digital rights management. See Putera Hasudungan, *A License to Listen*, The Jakarta Post, September 16, 2012, at <http://www.thejakartapost.com/news/2012/09/16/a-license-listen.html>.

¹⁰For example, *Sohu.com* (which ranked 8th in China and 39th globally in terms of Internet traffic) and *Sogou.com* (which ranked 17th in China and 78th globally) provide search functionality for infringing music files to the Chinese-speaking community in Indonesia and elsewhere in Asia, causing substantial damage to the music markets there. *Sohu/Sogou* was listed by USTR as a “notorious market” in its Out-of-Cycle Review of Notorious Markets, published December 20, 2011.

¹¹These include *4Shared.com*, a popular “one-click hosting” site or cyberlocker site, which is the 15th most accessed website in Indonesia, *mediafire.com* (the 19th most accessed site in Indonesia), *ziddu.com* (the 37th most accessed site in Indonesia), *filestube* (the 98th most popular site in Indonesia), and *hotfile* (the 260th most popular site in Indonesia).

¹²The evasive behavior of online pirate services in Indonesia, switching online locations and website names to avoid detection, using other fraudulent practices, and using offshore servers, has created hurdles to effective enforcement. Without a legal infrastructure in place fostering responsibility of service providers for helping deal with online infringements, e.g., through a statutory notice and takedown procedure in the hosted environment and ways to deal with non-hosted infringements in a fair and efficient manner, right holders lack an effective remedy against online infringement. Perhaps the most egregious effect of rampant online piracy is the dampening of the growth and evolution of a legitimate digital marketplace which benefits consumers, local and foreign right holders as well as the local distribution infrastructure.

¹³See Tomi Tresnady, *Hari Ini, Kemenkominfo Tutup 20 Situs Musik Illegal*, Okazone, July 27, 2011, at <http://music.okazone.com/read/2011/07/26/386/484624/hari-ini-kemenkominfo-tutup-20-situs-musik-ilegal> (citing 20 websites noted at a meeting between MOCI and the music industry).



meetings, both offices have back-tracked from positive statements of support to address the growing online infringement problem.

Raiding remains down across the board in Indonesia according to industry reports, and significant raiding conducted by Indonesian National Police (INP) and IPR investigators reportedly did not occur against very high levels of mall and retail piracy until November and December 2011, leading to much smaller numbers in terms of overall seizures of hard goods piracy (CDs, VCDs, and DVDs) in 2011.¹⁴ Police initiated roughly 70 investigations in 2011 to address end-user software piracy. The court system lacks transparency and remains largely non-deterrent, with the exception of one hard-goods piracy case in 2011 resulting in a conviction and jail sentence.¹⁵ INP and IPR investigators are not equipped to handle online infringement cases. There are only 14 IPR investigators under the IP Office serving all of Indonesia, which explains the limited number of actions taken and subsequently prosecuted.

The Indonesian Government's previous statements indicating its intent to provide high levels of IPR protection, and the prominence in which culture and creativity is placed under the current Indonesian Government structure,¹⁶ express and signify the positive aspirations of the Indonesian Government. Unfortunately, these aspirations have not yet been realized by improvements in the priority areas of copyright protection and enforcement.

Among the actions we believe would be critical in ensuring that adequate and effective intellectual property rights are afforded in Indonesia are the following:

Enforcement Issues

- Bring and conclude more high-profile deterrent criminal piracy cases, including steps to halt Internet piracy and piracy involving mobile devices or mobile networks, pirate distributors,

¹⁴During the period from November 2011 to August 2012, only one mall (Plaza Semanggi) has been raided by the IPR Investigators, according to the recording industry, and Indonesian National Police (INP) have only reportedly conducted raids in small retail outlets. Although the number of raids has increased compared to 2011, the results are not effective. In one instance, an OD plant raided by the INP in 2012 resulted in arrest of the operator, but not the owner, of the plant. The operator was convicted and sentenced to three months imprisonment, but the owner/mastermind was never charged; seized machinery was even returned to the owner of the plant.

¹⁵Most cases brought, which represent only a small percentage of the raids and investigations that ensue, involve small-scale distribution of pirated materials in the physical environment; very few involve major source piracy, such as warehouses, or cases against ringleaders causing the most damage up the supply chain.

¹⁶In February 2011, then Trade Minister Mari Pangestu included the following in a letter to USTR Ambassador Kirk:

Indonesia's continued growth and competitiveness rely upon thriving sectors that create jobs and exports. One of the sectors is creative industry. This sector needs a strong and effective IP protection as it provides incentives for creativity and innovation. It is essential therefore that the Government provides high level of IP commitments and effective enforcement for our own benefits and for the sake of Indonesia's sustainable growth. Please be assured that the Government of Indonesia will maintain effective IP protection and enforcement nationwide.

Letter from Mari Pangestu, Minister of Trade of the Republic of Indonesia, to "H.E. Ambassador Ron Kirk," *Indonesia 2010 [sic] Special 301 Submission*, February 14, 2011 (available at regulations.gov). In October 2011, in October 2011 Minister Pangestu was appointed to the newly-created position of Minister of Tourism and Creative Economy. See Risti Permani, *Developing a Creative Economy*, The Jakarta Post, November 1, 2011 (in which Minister Pangestu noted "creative economy sector in Indonesia contributed about Rp 140 trillion (US\$15.73 billion) to the state and thus the sector should be seriously managed").



warehouses, and factories, and bring high-profile cases involving end-user piracy of business software.¹⁷

- Establish a National IP Taskforce website tracking prosecutions completed, including parties to the case, legal bases for prosecutions, penalties assessed, and evidence found during raids.
- Implement programs to ensure government ministries use only licensed software and promote the use of software asset management best practices by private enterprises.
- Commit to expand Commercial Courts in Medan, Jakarta, Semarang, Surabaya and Makassar to adjudicate copyright cases, establish special IP courts for criminal cases, with trained judicial officers.
- Follow through on the National IP Task Force’s “Campaign” to take deterrent action against all forms of piracy.
- Ensure Directorate of Special Crimes (‘Ditreskrimsus’) and “Type A” Police Commands run sustained IPR police investigations with deterrent results.
- Retain *ex officio* enforcement authority¹⁸ and provide transparency in raiding.
- Ensure that Berne and TRIPS-compatible presumptions are afforded.¹⁹
- Combat illegal photocopying, print piracy, and unauthorized translations, and work with right holder groups to legitimize the use of published materials at schools and universities.
- Devise a strategy among all stakeholders to deal with growing Internet and mobile piracy. This strategy should include steps to encourage more active, voluntary cooperation of ISPs with right holders to prevent the use of networks for infringement, including but not limited to establishing fair and effective processes for dealing with non-hosted infringements and repeat infringers. The strategy should also include addressing fraud occurring over the Internet, such as the use of fake names, addresses, or identities.²⁰

In seeking to achieve the above, IIPA and its members are willing to work with the Indonesian Government, and encourage the U.S. Government as well, to help achieve high levels

¹⁷We urge the Attorney General’s office to initiate and aggressively pursue far greater numbers of cases involving Internet and mobile piracy, as well as important enterprise end-user software piracy cases.

¹⁸In many instances, *ex officio* action by the government is the only practical remedy available to right holders. Any proposal for an amendment which would remove such authority should be rejected.

¹⁹Industry has reported that court processes are sometimes hampered by defendants simply placing in issue the copyright ownership of the infringed work or sound recording, and reversing the presumption without any proof to the contrary. Indonesia’s Berne Convention obligations (as well as TRIPS obligations) require it to provide a presumption of copyright ownership, and that presumption cannot be rebutted unless the defendant shows proof to the contrary. Defendants should be asked to rebut the presumption, for example, by showing that they have a requisite license to conduct the relevant activities.

²⁰One may reportedly easily register a website by using a fake identification.



of IPR protection, including, where appropriate, through training, technical assistance, and capacity building.

Legislative Issues

- Modernize the Copyright Law (2002),²¹ *inter alia*, by:
 - 1) providing assurances that *ex officio* enforcement authority will be maintained;
 - 2) establishing landlord liability for the infringing activity of tenants, and ensuring that the business licenses of stores and distributors engaged in infringement are revoked;
 - 3) providing minimum criminal penalties for copyright infringement;
 - 4) ensuring that effective measures are in place to combat online infringements by introducing notice and takedown procedures and taking steps to encourage the active cooperation of Internet service providers with rights holders to prevent the use of networks for the commission of infringing acts, including but not limited to establishing fair and effective processes for dealing with repeat infringers;
 - 5) outlawing illegal camcording (recording or transmitting an audiovisual work in a movie theater using an audiovisual recording device, or attempting the same);
 - 6) fully implementing the WCT and WPPT, including providing WCT and WPPT-compatible rights (including the public performance, public communication and making available rights) for works and sound recordings;
 - 7) extending the term of protection for works and related rights.
- Ensure copyright infringement is considered a predicate offense under anti-organized crime laws that permit broader criminal investigation, seizure/freezing of assets, etc.
- Make optical disc regulations more effective by: 1) making inspections routine, unannounced and off-hours; 2) enforcing against SID Code violations, including gouging off or non-use of source identification codes; 3) providing transparency in raids and results; 4) covering imports of raw materials; and 5) ensuring that the Department of Industry collects exemplars.

III. Indonesia fails to assure the United States “that it will provide equitable and reasonable access to [its] markets”

The Government of Indonesia does not meet the GSP eligibility criteria due to its failure to assure the United States that it will provide equitable and reasonable access to its markets for

²¹A draft has been prepared to amend the Copyright Law. The IP Office recently made some changes to the Bill, but the draft has not been made available to the public yet for comment.



creative materials. Indonesia's laws, both on the books and in some cases in practice, impose market access barriers, investment barriers, and discriminatory treatment on U.S. copyright materials that make it more difficult to do business and compete in the country. For those measures that have yet to be implemented or are suspended temporarily (such as the local film print requirement), their maintenance in Indonesia creates business uncertainties and raises the specter that they could be imposed at any time, effectively closing or limiting access to the market. The reduction (and eventual elimination) of such market access impediments is a key component of ongoing efforts to combat piracy in Indonesia. Among the many barriers in Indonesia include:

- **A Decree issued in October 2011 that destroyed one window of revenue for the music industry, by banning its sale of ring-back tones.** In 2011, the Information and Communications Ministry issued Decree (BRTI) No. 177/2011 which was aimed at phone credit fraud, but which has virtually destroyed the mobile phone ring tone and ring-back tone market. In the Decree, BRTI instructed telecommunications companies to: 1) stop offering content through SMS broadcast/pop-screen/voice broadcast until a time to be later determined; 2) deactivate/unregister as of the date of issuance (October 18, 2011) each Premium Message Service, including but not limited to SMS/MMS premium subscriptions, ring tones, games, or wallpaper services. As a result of the Decree, all "pay SMS" messages (including those in which ring tones and ring-back tones are purchased) were made illegal. Ring-back tones were a significant market in Indonesia. The recording industry in Indonesia estimates it has lost almost the entire ring-back tone market due to this new and unprecedented restriction, on top of having to deal with infringing/unauthorized ring tone and ring-back tone businesses.
- **A customs valuation method for audiovisual products that is inconsistent with the internationally accepted agreements:** In 2011, Indonesia instituted a burdensome new duty on imported films, based on a methodology inconsistent with the provisions of the WTO Customs Valuation Agreement. This methodology incorrectly seeks to apply the CVA's "transaction method" and thus to capture the value of the IP royalties associated with the exhibition of the films. The transaction method should not be applied to the importation of films for theatrical release because, as defined by the CVA, no "transaction" actually occurs. As such, the Indonesian Government should properly apply the computed methodology, in which the valuation of film imports is made on a per-meter basis against the physical carrier medium, as is the norm in virtually every market in the world, and not an arbitrary (and highly unusual) specific tariff based on the film's running time.
- **A requirement to locally replicate all theatrical prints and home video titles released in Indonesia:** IIPA greatly appreciates the continued suspension of the longstanding Decree requiring the local replication of all theatrical prints and home video titles (e.g., DVDs).²² However, we look forward to working with the Indonesian Government to obtain formal and

²²MOCT Ministerial Decree No. 55 (2008). The Decree was once again suspended until January 1, 2013.



permanent elimination of this requirement as soon as possible. While the Decree has been stayed, if implemented, it would negatively affect foreign motion picture companies' release and distribution schedule for the country, and would raise concerns over existing local facilities' ability to handle its volume and quality output requirements as well as lab and duplication facility security issues. The specter of the Decree threatens to have serious negative consequences on the long-term viability of Indonesia's film industry, threatens the continued development of local cinemas, and jeopardizes arrangements local filmmakers have for post-production work overseas. The Decree remains opposed by local Indonesian filmmakers.

- **A Film Law that includes potentially onerous quotas and restrictions:** The 2009 Film Law contains provisions that, if implemented, would limit foreign participation in various aspects of the film businesses and as such would be inconsistent with the U.S.-Indonesia Letter Agreement on Market Access for Films and Videos. In addition, the local filmmaking industry opposes the law. The Law includes a 60% local content (screen) quota for local exhibitors, and a ban on the dubbing of imported films. Other restrictions include: 1) Articles 10 and 20 that require the maximization of Indonesian resources (potentially including a local print replication requirement); 2) Article 17 which establishes a pre-production content review requirement that obliges film makers to notify the government of the title, story content, and production plan that would be especially burdensome for co-productions; 3) Articles 26-28 under which distributors are required to provide "fair and right" treatment to exhibitors and could be interpreted to mandate provision of prints to theaters on demand (a potential "must supply" obligation); and 4) Article 40 restricting foreign entities from engaging in film distribution, exhibition, export, and import businesses.
- **A blanket prohibition on foreign company participation or investment in importation, direct distribution, exhibition, or retailing in many copyright products in Indonesia.** Presidential Decree 118 of 2000 stipulates that all importation and distribution of films and video products is restricted to wholly-owned Indonesian companies. The specific sectors of the media business that the Indonesian Government has excluded from foreign investment include radio and television broadcasting service providers, radio and television broadcasting subscription service providers, print media information service providers, filmmaking businesses, film technical service providers, film export and import businesses, film distributors, and movie house operators and services.
- **Restrictions on Cross-Border Data Flows.** In the context of cloud computing and other online delivery of copyrighted content, it is critically important to secure the freedom to transfer and exchange data among data centers that are located in different countries. Indonesia's Law on Information and Electronic Transactions (ITE Law, 11/2008) provides regulation of a general nature concerning electronic transactions. In August 2011, the Indonesian Government issued a draft amendment that would require data service providers to establish local representation in Indonesia, including local data centers. It follows that cloud services providers would be required to establish in-country cloud data



centers which would create a significant barrier to the delivery of copyrighted works via this business model.

Among the actions we believe would be critical in assuring the copyright industries that Indonesia will provide equitable and reasonable access to its markets for creative materials are the following:

- Eliminate the “specific tariff” on imported films, and return to a duty consistent with the terms of the WTO CVA determined on the basis of the underlying physical carrier medium.
- Permanently remove the requirement to locally replicate all theatrical prints and home video titles released in Indonesia.
- Eliminate provisions from the Film Law that would, if implemented, impose local screen quotas, pre-production content review requirements, a prohibition on the dubbing of imported films, and other restrictions on film industry.
- Avoid stringent prohibitions on cross-border data flows or mandates that data centers for cloud services be located within the country.
- Repeal Information and Communications Ministry issued Decree (BRTI) No. 177/2011, and immediately initiate investigations into identifying parties involved in illegal ring tone and ring-back tone operations.

IV. Conclusion

For the reasons stated in this brief, IIPA requests that through this GSP review, the U.S. Government work with the Indonesian Government to remedy the deficiencies outlined above and in IIPA’s previous submissions, and if at the conclusion of the review, requisite improvements are not made by the Government of Indonesia, we request that the Committee suspend or withdraw its GSP benefits, in whole or in part.

Respectfully submitted,

Michael Schlesinger
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