

# CHILE

## INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE (IIPA)

### 2012 SPECIAL 301 REPORT ON COPYRIGHT ENFORCEMENT AND PROTECTION

**Special 301 Recommendation:** IIPA recommends that Chile remain on the Special 301 Priority Watch List in 2012.

**Executive Summary:**<sup>1</sup> In late March 2011, Chilean President Piñera met with President Obama and promised to make “significant progress” in 2011 toward full implementation of the U.S.-Chile FTA. Unfortunately, major elements of FTA compliance remain outstanding, with detrimental effects to the fight against widespread physical and digital piracy in Chile. Changes that the Government of Chile made to the Chilean Copyright Law in 2010, while welcome, have proven to have had little effect on high piracy levels and inadequate enforcement in Chile in the past year. While these amendments demonstrate the government’s desire to encourage industry cooperation against online piracy, they largely fail to meet the standards required for proper implementation of Chile’s FTA copyright protection and enforcement obligations, nor do they address Chile’s FTA obligations on Technological Protection Measures (TPMs), now both several years past due. Hard goods piracy remains at steady levels while Internet piracy continues to grow, a major obstacle for the development of a new digital economy. Industry cooperation with Chilean copyright enforcement authorities generally is good; however, additional resources are still needed to address the low number of street actions, and increased attention on the part of the judiciary is needed to follow through on the positive efforts of the Carabineros and Civil Police. At the end of the day, few copyright prosecutions are undertaken and even fewer result in deterrent sentencing, due largely to inadequate minimum penalties in the law.

### PRIORITY RECOMMENDED ACTIONS FOR CHILE IN 2012

- Further amend the copyright law to fully satisfy FTA obligations with respect to: effective Internet Service Provider (ISP) liability provisions, deterrent-level civil and criminal sanctions for copyright infringement, an effective civil *ex parte* search remedy, and the establishment of statutory damages.
- Satisfy FTA and WIPO Internet Treaties obligations to adopt TPMs legislation and enforce anti-circumvention provisions (both criminal and civil).
- Empower the Department of Intellectual Property Rights to enforce the obligation of ISPs to forward notices received from right-holders regarding copyright violations.
- Take immediate steps to complete and fully implement the 2001 Government Software Legalization Decree, and adopt provisions to regulate the acquisition and management of software by government agencies.
- Through increased resources and coordination, place greater priority among administrative and enforcement authorities on anti-piracy actions, particularly on the Internet and in the streets of Santiago.
- Improve the speed of civil copyright infringement litigation and afford an effective and TRIPs-compliant civil *ex parte* search remedy, both in the law and in-practice.
- Launch a national Internet anti-piracy campaign led by the Ministry of the Interior, setting goals for specific enforcement efforts, improved interagency cooperation, regular reporting on administrative and judicial Internet actions, and enhanced public awareness.
- Strengthen border enforcement with better tracking mechanisms and coordination with rights holders.

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<sup>1</sup>For more details on Chile’s Special 301 history, see IIPA’s “History” appendix to this filing at <http://www.iipa.com/pdf/2012SPEC301HISTORICALCHART.pdf>, as well as the previous years’ reports, at <http://www.iipa.com/countryreports.html>. For a summary of IIPA’s 2012 global issues, see our cover letter at <http://www.iipa.com/pdf/2012SPEC301COVERLETTER.pdf>.



## **COPYRIGHT PIRACY IN CHILE**

The copyright industries report no decline in Chile's widespread "street piracy," and illegal downloading continues to be pervasive and largely unchecked. Although the country is emerging as a sophisticated digital market (broadband is now available to 54.8 percent of the population, according to [www.internetworldstats.com](http://www.internetworldstats.com)), without effective anti-piracy mechanisms to keep pace with the increase in Internet users and available bandwidth, legitimate online distributors of copyrighted materials face enormous challenges. Internet piracy occurs most significantly via peer-to-peer (P2P) file sharing of infringing content, but also occurs through hosted sites, illegal use of cyberlockers, hyperlinks to infringing materials and, increasingly, illegal mobile and smart phone downloads.

**Optical disc piracy, street piracy and border issues:** As most of the pirate music consumers in Chile have migrated to the Internet, today street vendors ("*ambulantes*") primarily sell DVDs containing movies and music videos. The recording industry, however, reports that optical discs still face a 50% piracy rate of the total market in Chile. Vendors cover their pirate wares with big towels printed with the cover image of movies, games, music, or software. A buyer asks for the product, the seller makes a phone call, and in a few minutes a runner appears with the pirated product. Police actions against the street vendors are frequent but produce only transitory changes in the street piracy situation. In recent years, the film, music and business software industries have reported that "in-house piracy" in Chile is driven by street purchasers who seek illegal copies of films, games, and software from individuals with access to copying equipment at work. These in-house vendors use catalogues distributed by email or on paper, receive the requests, fulfill orders and then receive payment from a distributor. Finally, Chile is a major port of entry for blank optical disc media coming from Asia. The illegal importation and smuggling of pirate goods from Peru seriously affects the northern cities of Arica, Iquique, and Antofagasta. Some products are imported through the Port of Iquique, falsely identified, and re-exported to other countries.

**Business software piracy:** The Business Software Alliance (BSA) reports that both the public and private sector in Chile have a better understanding in 2011 of the risks involved in pirated software and the importance of IP to the economy, but the increasing ease with which consumers can access digital pirated software counters any progress with public awareness. As a result, overall, business software piracy neither rose nor fell in Chile during 2011. End-user piracy (the unauthorized use and copying of software by businesses and other enterprises) remains a problem and currently causes the greatest damage to the business software market in Chile. Other significant forms of software theft include unauthorized pre-installation of software by hardware retailers, in-house and external IT advisors who often load unauthorized copies of software onto computers or networks, and Internet piracy. The PC software piracy rate in Chile remained steady in 2010 at 64%.<sup>2</sup> This translates to a commercial value for pirated U.S. vendor software of \$173 million.

End-user piracy of business software occurs in a variety of professional business, including media, architecture, design, engineering, and publicity, to name a few. Perhaps of most immediate concern is the piracy that occurs within public agencies, which are in a position to set a national example. Adopting appropriate provisions to regulate the acquisition and management of software by the government is a critical solution, and one required by the FTA. Internet piracy of business software is also a major concern in Chile, making the need for deterrent measures against online infringement an immediate one.

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<sup>2</sup>BSA's 2011 software piracy statistics will not be available until after the filing deadline for this submission, but will be released in May 2012, at which time piracy rates and U.S. software publishers' share of commercial value of pirated software will be available at [www.iipa.com](http://www.iipa.com). In 2010, the software piracy rate in Chile was 62%, representing a commercial value of unlicensed software attributable to U.S. vendors of US\$192 million. These statistics follow the methodology compiled in the Eighth Annual BSA and IDC Global Software Piracy Study (May 2011), <http://portal.bsa.org/globalpiracy2010/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 2012 Special 301 submission at <http://www.iipa.com/pdf/2012spec301methodology.pdf>.

**Piracy of music and sound recordings:** The recording industry, led by its national group (IFPI Chile), reports that the level of piracy of optical discs remains stable at 50% of the market, while online music piracy is growing. Physical piracy, primarily in the form of pirate CD-Rs and DVD-Rs, is highest in the cities of Santiago, Concepción, Iquique, and Valparaiso. Internet piracy is growing quickly, now exceeding the hard goods problem significantly, as legitimate sales of physical product decline. The growing market for digital music is nearly out of reach for the recording industry. Internet piracy is estimated at 90% of all music consumption in the country. The majority of legitimate music sales over the Internet are downloaded to smart phones. IFPI Chile reports that the recording market for physical copies in Chile suffered a decrease of 1% in 2010. In turn, digital sales increased by 18% mainly due to “mobile” music consumption. Digital sales to computers continue to be heavily affected by piracy, especially via P2P exchanges and links posted on blog, social, and forum websites.

The most common form of Internet piracy is the exchange of illegal files through P2P networks (the most popular being ARES, eMule, eDonkey, Bit-Torrent, and the Pirate Bay) and links to cyberlockers containing infringing content posted on social sites such as Chilecomparte. Pirated copies on the Internet are readily available for download and are used as source materials to burn CDs/DVDs for distribution in the streets. For 2011, Chile placed 18<sup>th</sup> in the world in the number of connections by peers participating in the unauthorized file sharing of select ESA member titles on public P2P networks, up from its 24<sup>th</sup> place ranking position in 2010.

Another growing problem stems from the cyberlinks posted on forums and social sites. A clear example of this is the site “Chilecomparte,” one of the most popular social communities on the Internet in Latin America, which allows registered users to post and exchange thousands of unauthorized copies of music files. The Prosecutor’s Office has issued an action plan to address the case, apparently addressing the lack of training on IPR Internet related cases. As of today, however, the Chilean authorities have taken no action to address the massive piracy taking place through Chilecomparte.

**Camcorder piracy:** In the past several years, the Motion Picture Association (MPA) has seen pirated videos enter the market originating from illegal filming in Chilean movie theaters. Known as camcorder piracy, this activity was the subject of trainings subsequently conducted for cinema employees on how to spot illegal camcording among moviegoers.

The independent film and television segment of the motion picture industry (IFTA) reports that online and physical piracy remain a significant export constraint for independent producers and distributors, the majority of which are small- to medium-sized businesses. Independent producers partner with local authorized distributors to finance and distribute their films and programming. These authorized distributors find it almost impossible to compete with the pirates. Producers and distributors confirm that DVD sales have been particularly impacted since pirated digital copies are offered for free online and with the same quality viewing experience as a DVD. Unable to compete with free, legitimate distributors are unable to commit to distribution agreements or offer drastically lower license fees which are inadequate to assist in financing of independent productions.

## **COPYRIGHT LAW ISSUES IN CHILE**

A set of amendments to the copyright law went into effect in May 2010, addressing two areas of high importance to rights holders: ISP liability and deterrent criminal penalties. The ISP liability provisions, in particular, have been a source of much anticipation and, upon adoption, merited a strong sense of accomplishment within the Government of Chile despite falling short of meeting Chile’s FTA obligations in this area. Unfortunately, the government has become content to rest on its laurels for this advancement in voluntary cooperation among rights holders and ISPs, and now demonstrates no interest in revisiting an FTA-compliant notice and takedown system.

The ISP liability provisions of the new legislation provide, on one hand, a means by which rights holders may seek a court order for the removal of infringing material by an ISP (Article 85Q of the Copyright Act) or, on the other hand, a mechanism for a voluntary notice system by which ISPs are to forward notices of infringement to users

within five working days of their receipt (Article 85U). The judicial order takedown procedure in Article 85Q results in concrete results to remove infringing material, though it is the lengthier of the two processes. Meanwhile, the notice-forwarding requirement of Article 85U has the potential for quicker responses to known instances of infringement. However, under the latter procedure, failure to comply on the part of the ISP or failure to remove content on the part of the user results in no negative consequences. As a result, speedy compliance cannot be guaranteed.

While the new ISP liability provisions fall short of establishing an effective notice and takedown procedure as required by the U.S.-Chile FTA, they do take an important first step in developing voluntary notice systems between rights holders, ISPs, and users. Unfortunately, while maximum criminal penalties for repeat offenders were increased to deterrent levels, minimal levels are still available and continue to be favored by Chilean judges. The law establishes a number of exceptions and limitations to copyright that could undermine important copyright protections, and fails to resolve gaps in copyright protection and enforcement in areas including *ex parte* searches and statutory damages. Provisions for the protection of TPMs have not been adopted. Finally, government software legalization has not been adopted. Given each of these shortcomings, Chile is not in compliance with its FTA obligations.

The recording industry reports that in 2011 it initiated a campaign sending around 300 notices to the biggest ISP in the country (VTR). However, VTR failed to forward the notices to its subscribers arguing “technical difficulties and staff problems.” Further attempts from IFPI Chile to make VTR forward the notices also were unsuccessful. IFPI Chile then contacted other ISPs in the Santiago area (Telefonica, Claro and Entel) but no agreement has been reached with them to establish a uniform mechanism to comply with the legal mandate. Unfortunately, there is no specialized authority empowered in the Chilean Government to enforce Article 85U of the Intellectual Property Law, a fact that is not lost on ISPs. The government should authorize the Intellectual Property Rights Department (under the Direction of Museums and Libraries) or another authority within the government to follow up, advise, and ultimately enforce the obligations of ISPs under the law. Otherwise, rights holders will continue to suffer a growing level of Internet infringement without any practical chance of exercising their rights against the most damaging form of piracy in the country.

**The U.S.-Chile FTA:**<sup>3</sup> Since the U.S.-Chile FTA went into force on January 1, 2004, Chile has failed to meet the bulk of its obligations that were due under a series of transition period deadlines, all of which have passed. Each of the following obligations remains outstanding:

- Adopt effective provisions on limitations of liability for ISPs and efficient notice and takedown measures (Article 17.11.23).
- Provide for a right of communication to the public and non-interactive digital transmissions (Article 17.6.5).
- Provide adequate protection to temporary copies (Articles 17.5.1 and 17.6.1).
- Provide for legal remedies for rights management information (Article 17.7.6).
- Provide for pre-established damages (statutory damages) in civil judicial proceedings (Article 17.11.9).
- Provide for civil remedies, including seizures, actual damages, court costs and fees, destruction of devices and products (Article 17.11.12).
- Provide for various border measures (Articles 17.11.17 through 17.11.21).
- Provide for the protection of technological protection measures (TPMs) and enforce anti-circumvention provisions against circumvention, including preparatory acts (Required by FTA Articles 17.7.5.a and c, as well as the WIPO Internet Treaties).

IIPA and its members strongly support the FTA and for many years have urged Chile to fully and promptly comply with its FTA and international obligations.<sup>4</sup>

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<sup>3</sup>The U.S.-Chile Free Trade Agreement is posted on USTR's website at [http://www.ustr.gov/Trade\\_Agreements/Bilateral/Chile\\_FTA/Final\\_Texts/Section\\_Index.html](http://www.ustr.gov/Trade_Agreements/Bilateral/Chile_FTA/Final_Texts/Section_Index.html). For an earlier review by IIPA of the U.S.-Chile FTA IPR Chapter, see IIPA's Submission to the U.S. International Trade Commission on the U.S.-Chile Free Trade Agreement, May 8, 2003, available at [http://www.iipa.com/rbi/2003\\_May8\\_ChileFTA\\_ITC.pdf](http://www.iipa.com/rbi/2003_May8_ChileFTA_ITC.pdf).

**Copyright law reform adopted in 2010:** Chile has been working on legislation to amend its copyright law since 2007 to address some (but far from all) of the FTA issues cited above. Local copyright industry representatives repeatedly raised concerns with Chilean officials and Members of Congress over the years that followed, yet the text originally drafted by the Ministry of Culture moved through the Senate and the House largely unimproved. The Constitutional Court approved amendments to the Chilean Copyright Law on March 31, 2010. The amendments entered into force as Law No. 20.435 upon publication in the Official Journal, dated May 4, 2010. As adopted, the amendments contain significant gaps in the following areas:

- **ISP liability:** Chile's Copyright Law as amended creates a "notice plus notice" architecture for ISPs to engage with users regarding instances of infringement, but lacks the threat of any real consequences for typical online piracy and fails to impute liability upon an ISP that gains knowledge of infringement outside of a court order. Due to these shortcomings, the new procedure falls short of the Chile's FTA obligations. It also is inadequate to deal with piracy over P2P networks, a prevalent form of piracy in Chile. Specifically:
  - Chapter III on "Internet Service Providers Limited Liability Provisions" generally tracks the safe harbors in the FTA (articles 85-L to 85-Ñ). However, the new law requires that ISPs have "effective knowledge" before voluntarily removing infringing content – and under Article 85-Ñ such knowledge must be based on notification from a court of law rather than from a right holder. This structure severely limits the possibility of the voluntary cooperation between ISPs and rights holders that is needed for an effective response to online piracy.
  - Article 85-O requires ISPs to have a contractual policy to cancel the subscriptions of infringers, but only when those subscribers have been convicted twice for copyright infringement. Considering the infrequency of prosecutions in Chile, this condition will likely never be met in reality, and is unlikely to have any deterrent effect.
  - Article 85-U requires ISPs to inform subscribers of notifications from rights holders within five days of receipt, but the law fails to ensure compliance with this notification requirement through any incentives or penalties.
- **No civil *ex parte* remedy or statutory damages:** No provisions are included to strengthen the civil *ex parte* search remedy, nor are there any provisions establishing statutory damages.
- **Overbroad exceptions to protection:** The law as adopted contains certain exceptions that appear to be incompatible with the FTA. For example, provisions on reverse engineering are too broad: the exception is not restricted to achieve interoperability (which is the FTA standard). Exceptions involving libraries could allow libraries to reproduce entire works in digital form without any restrictions on further use, reproduction or distribution. Finally, all enumerated exceptions and limitations to Chile's copyright provisions must be consistent with the three-step test set forth in the FTA, ensuring that exceptions and limitations are not overbroad.<sup>5</sup>
- **Low minimum criminal sentences:** As adopted, the amendments achieve new maximum prison sentences and fines, which can reach US\$140,000 (2,000 *Unidades Tributarias Mensuales* (UTMs)) for repeat offenders. The law does not, however, increase the minimum sanctions for infringements. As a result, the copyright industry fears that most judges, who usually apply only the lower limits, will continue to apply these low levels of sanctions. Efforts in separate legislation (discussed below) may go part of the way

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<sup>4</sup>Past IIPA Special 301 submissions have detailed the history of Chile's FTA implementation, and are available at <http://www.iipa.com/countryreports.htm#C>.

<sup>5</sup>Specifically, Article 17.7(3) of the U.S.-Chile FTA provides that "Each Party shall confine limitations or exceptions to rights to certain special cases which do not conflict with a normal exploitation of the work, performance, or phonogram, and do not unreasonably prejudice the legitimate interests of the right holder."

toward implementing more deterrent criminal sanctions for piracy. Sanctions should clearly apply in cases involving Internet piracy, especially involving those who upload protected copyrighted materials.

- No protection for Technological Protection Measures: Rights holders remain extremely disappointed that Chile continues to ignore its obligation under Article 17.5 of the FTA to provide adequate legal protection for TPMs used to control access or otherwise restrict unauthorized acts with respect to a protected work.

**Trans-Pacific Partnership FTA:** Chile is an initial TPP negotiating partner. IIPA views the TPP negotiations as an opportunity to make progress on Chile's outstanding IPR obligations under the U.S.-Chile FTA.

## **COPYRIGHT ENFORCEMENT IN CHILE**

The copyright industries report good cooperation with Chilean criminal and civil enforcement authorities. However, additional resources are needed to raise street actions to an effective level, and increased attention on the part of the judiciary is needed to follow through on the positive efforts of the Carabineros and Civil Police. Police and customs officials take *ex officio* actions on a regular basis and involve rights holders in legal procedures. However, authorities need to take enforcement actions with greater frequency against Internet sites distributing infringing products. Prosecutions for copyright crimes are too infrequent and rarely result in deterrent sentencing, and civil actions face procedural obstacles and delays.

**Inadequate civil *ex parte* actions and slow civil cases:** Inadequate preparation and training on intellectual property issues for many judges and their staff remains a major problem, along with weak civil provisions. Although the problem has diminished slightly over the years, there is much room for improvement to raise the capacity of the judiciary to understand the nature of copyright cases.

BSA continued to bring only civil actions in Chile last year, conducting raids in Santiago and 4 other regions, with plans to expand to a 5th region in 2012. Civil *ex parte* actions are a critical remedy for the business software industry. BSA reports that in 2011, Chilean judges continued to improve their response to civil complaints and accepted more BSA requests for *ex parte* raids, which is a commendable achievement. However, despite this progress, BSA is still struggling with a very difficult provision of Chilean law regarding *ex parte* proceedings in civil cases. When *ex parte* search requests are filed, they are registered in a public electronic register, where target companies may learn about a search request before the inspection takes place. This notice violates TRIPS Article 50, and it undercuts the effectiveness of the remedy. BSA continues to move forward on this issue and is hopeful that with the new copyright law, the judges (including the judicial police's IPR branch, BRIDEPI) are improving their understanding of IP issues and software piracy specifically.

**Criminal anti-piracy enforcement:** There are three overwhelming problems in getting effective criminal enforcement in Chile. First, the IPR Prosecutor's Office is not dedicating the time and resources to understand and build Internet piracy cases, while the National Prosecution Office lacks a special branch to investigate intellectual property cases. In general all enforcement authorities lack adequate training and expertise to investigate and prosecute Internet piracy cases. This is the biggest factor behind law enforcement's inability to achieve significant results. Despite all efforts developed by the private sector in organizing seminars and informative materials for enforcement officers, the government is not taking the issue seriously or assuming the duty of training its own personnel. Second, the National Police (Carabineros), the Prosecutor's Office and the Judicial Police suffer from a lack of sufficient human resources. The Carabineros, particularly the organized crime investigations department, continue to be a major support for anti-piracy actions in Chile. However, raids are limited to requests from rights holders. Finally, even with higher penalties available under the 2010 amendments, judges continue to impose the minimum available penalties, which are not deterrent. Under the new Chilean Criminal Procedure System, judges continue to follow the principle of *in dubio pro reo* ("when in doubt, for the accused"), typically preferring the lower of the range of penalties. Compounding the problem, the Criminal Procedures Code and the Penal Code treat copyright piracy as a misdemeanor, empowering prosecutors to enter into agreements with the accused to effectively

substitute community services and a probationary period for criminal penalties. The General Attorney's office needs to prioritize copyright cases and instruct prosecutors to file criminal charges in important infringement cases.

The recording industry has an active criminal anti-piracy campaign in Chile, but reports disappointing results in 2011. The recording industry's anti-piracy group (IFPI Chile) assisted the police last year and reports that hard goods raids continue to be focused in Santiago and Valparaiso. Most of these raids are requested by the industry rather than being initiated by the local authorities. Flea markets such as Bio-Bio in the outskirts of Santiago are still plagued with pirate product. The police are taking a small number of *ex officio* actions in cases of street piracy and some laboratories. Customs also works on its own but eventually requests a complaint from the right holders. The recording industry reports that 133 raids on physical piracy were carried out during 2011 (44 less than the previous year), and 317,661 pirate copies along with 217 CD/DVD burners were seized in the operations (1,793 less than the previous year). However, police operations rarely result in the arrest of responsible individuals and almost never in effective prosecutions. Thirteen individuals were convicted on music piracy cases. These figures reflect a combination of factors, including the weak attention of Chilean authorities to cases of piracy and the massive migration of music pirate activities to the Internet. Therefore, less and less burned music CD-Rs are found on streets, replaced by more and more DVD-Rs containing movies and games.

**Internet piracy and cybercrime cases:** Chile's Judicial Police created a specialized, dedicated force to investigate Internet crimes. The Cyber Crime Brigade has been active and helpful on many Internet anti-piracy actions, but obtaining follow-through by prosecutors remains difficult. During 2011, through the efforts of IFPI Chile, a total of 136,146 infringing cyberlocker links, 8,335 P2P links and 1,252 forum posts were removed. As with physical piracy, the industry hopes to continue fighting piracy through local teams. The Specialized Prosecutor's Office continues to show very little interest in prosecuting the social site Chilecomparte for its dedicated pirate music and video components, despite the fact that Chilecomparte is the biggest local online source for unauthorized distribution of pirate music.

The entertainment software industry indicates that [www.h2zone.cl](http://www.h2zone.cl), which is hosted in Chile, is a leading purveyor of circumvention devices, such as game copiers and mod chips. Because Chile lacks adequate legal protection for TPMs, remedies against such distributors are unavailable. Unfortunately, the easy availability of circumvention devices serves as a catalyst for further online piracy, as such devices are needed for games illegally downloaded from the internet to play on a game console.

**ISP cooperation:** With respect to online hosted infringing content, the recording industry reports that the voluntary notice procedures implemented in the recent copyright law amendments are working adequately to foster cooperation between rights holders and ISPs in cases where content is hosted on the ISP's server. IFPI Chile reports that ISPs are not cooperating in forwarding notices to their subscribers, as mandated by the new Intellectual Property Law. IFPI Chile is conducting consultations with major ISPs in the country and official authorities to explore a solution to the lack of action from ISP's. In the meantime, rampant Internet piracy goes unaddressed, especially among users of P2P networks.

**Inadequate border enforcement:** Chile's Iquique port is a transshipment point for blank media from Asia entering Colombia, Peru and Bolivia. The main problem that occurs is smuggling. In addition, the northern cities of Arica, Iquique and Antofagasta often serve as an entry point for blank optical disc media that is coming from Southeast Asia. To better track imports of blank media, the government should establish a customs policy whereby all blank CD shipments must pass through "red light" proceedings. This procedure would require that every shipment of optical media be inspected for price and classification accuracy as well as legitimacy of exporters and importers. To simplify such an operation, Chilean Customs may want to consider limiting the number of ports of entry for blank optical media, as in programs already implemented in Mexico and Paraguay. The creation of an importers' register would also improve disclosure; such a system should also involve rights holders. There was no progress at all on these issues last year, and the interested industry will be reevaluating its strategy on this issue in view of the new government in Chile.

**Market access:** Chile is currently considering digital television legislation that includes an amendment that would ban all advertising from Pay TV channels. This legislation is currently being considered by the Transportation and Telecommunications, and Education and Culture joint committee. In addition to this straight ad ban, there are multiple other amendments that would limit advertising and restrict the content of advertisements.

**Trainings:** The copyright sectors stand ready to provide trainings to Chilean enforcement personnel. Specifically, BSA has thirteen years of experience conducting software anti-piracy actions in Chile and is prepared to work with the competent authorities there to combat copyright infringement. In 2011, BSA participated in a seminar with lawyers of the Tax Agency to demonstrate its activities; participated in rebuilding a web platform developed by the Ministry of Economy ([www.innovacion.cl](http://www.innovacion.cl)); and participated in the creation and support of an Internet platform developed by INAPI called "Protege Tu Idea" ([www.inapi.cl/protegetuidea/](http://www.inapi.cl/protegetuidea/)), in coordination with Police, INAPI, Customs, and Judicial Police. BSA also continues to work before the courts of Santiago, Valparaiso, Viña del Mar, Rancagua, Temuco and Antofagasta (and this year will include Concepción) to educate regarding IP law and BSA's activities. The local music recording industry group, IFPI Chile, regularly participates in training seminars for Carabineros and the Civil Police, and in April 2012 will provide a seminar for judges in Santiago, in collaboration with the American Embassy.