

**LAW ON REFORMS AND ADDITIONS TO LAW No. 322,
LAW ON THE PROTECTION OF PROGRAM-BEARING SATELLITE SIGNALS**

LAW No. 578, Adopted on March 16, 2006

Published in Official Gazette No. 60 of March 24, 2006

THE PRESIDENT OF THE REPUBLIC OF NICARAGUA

Hereby informs the Nicaraguan people that

THE NATIONAL ASSEMBLY OF THE REPUBLIC OF NICARAGUA

CONSIDERING

I

That the Political Constitution of Nicaragua, in Articles 125 to 128, promotes and protects intellectual property, establishing an obligation for the State of Nicaragua to support national culture in all its expressions, be they collective or individual; moreover, the State of Nicaragua must provide the necessary means to create and disseminate works and protect copyright.

II

That the National Assembly, in conformity with the powers laid down in Article 138(12) of the Political Constitution, adopted the Free Trade Agreement between Central America, the United States of America and the Dominican Republic (CAFTA-DR), through Decree A.N. No. 4371, published in Official Gazette No. 199 of October 14, 2005.

III

That the President of the Republic ratified the Free Trade Agreement between Central America, the United States of America and the Dominican Republic (CAFTA-DR), through Executive Decree No. 77-2005, published in the Official Gazette on November 20, 2005, in conformity with the powers laid down in Article 150 of the Political Constitution.

IV

That the National Assembly adopted, through Decree No. 13 of September 6, 1975, published in Official Gazette No. 246 of September 30, 1975, the Agreement on the Distribution of Program-Bearing Satellite Signals Transmitted by Satellite, in force since 1979.

V

That it is necessary, as far as the aspects of intellectual property are concerned, to guarantee the implementation of the immediate commitments established in Chapter Fifteen, Intellectual Property Rights, deriving from CAFTA-DR.

In exercise of the powers conferred,

HAS ISSUED

the following:

**Law on Amendments and Additions to Law No. 322,
Law on the Protection of Program-Bearing Satellite Signals**

Article 1.- Article 28 shall be amended to read as follows:

“Article 28.- Primary Proceedings. Without prejudice to the corresponding criminal sanctions, proceedings under way in the administrative sphere and those provided for in ordinary legal process, the holder of rights in a program-bearing signal, his successors in title or representatives or any person affected by the behavior of the infringer, may ask the judge to transmit the following orders to the person who commits one or more of the offenses defined in Article 35 of this Law:

1. To cease the unlawful activity.
2. To prevent its recurrence.
3. To pay compensation for the damage caused by the violation of rights.
4. To withdraw from trade the unlawful copies and give them to the holder of the rights violated at the latter’s request, or destroy them.
5. To render useless or deactivate the products resulting from the unlawful act, the equipment or systems used for its commission and the materials used for the infringement, when the same are not likely to be used for legitimate purposes and, as necessary, to destroy them.
6. To order the infringer to pay court costs.
7. To publish the sentence in one or more newspapers to be indicated by the judge, without prejudice to its publication in the Office Gazette, in all cases at the cost of the infringer.

Compensation for damage shall be calculated on the basis of the following criteria, *inter alia*:

- i. The lost profit incurred by the holder of the right as a consequence of the infringement.
- ii. The amount of the profits obtained by the infringer as a result of the acts of infringement.
- iii. The price which the infringer would have paid for a contractual license, taking into account the commercial value of the infringed right and the contractual licenses that have already been granted.”

Article 2.- Article 35 shall be amended to read as follows:

“Article 35.- Offenses and Punishment. A sentence of three to four years’ imprisonment shall be imposed on anyone who, without securing the prior consent in writing of the holder of the right in the signal broadcast, commits any of the following acts:

1. Broadcasting or distributing to the public a program-bearing signal, whether by wireless or by cable, optic fiber or another similar means.

2. Decoding a codified, wire or wireless program-bearing signal.
3. Recording and producing a program protected for distribution to the public of copies containing the reproduction.
4. Participating in or assisting with the manufacture, assembly, modification, sale, export or import, rental or distribution by another means, installation, maintenance or placing into circulation in another way of a tangible or intangible device, while being aware or with reason to know that the device or system is primarily used for decoding a coded program-bearing satellite signal without the authorization of the lawful distributor of the said signal.
5. Receiving and subsequently unlawfully distributing a program-bearing signal that originated as a coded satellite signal, knowing full well that it has been decoded without the authorization of the lawful distributor of the signal.

Article 3.- Article 40 shall be amended to read as follows:

“Article 40.- Adoption of Measures. The authorities of the Republic, within the scope of their respective powers, shall adopt the procedures and means of compliance that ensure effective protection for the rights recognized by this Law and constitute an effective deterrent against further infringements.

In order to render the most appropriate ruling, the civil judicial authorities may order the claimant to provide any information in his possession with regard to any person involved in any aspect of such acts and with regard to the means of production or distribution channels for the products or services which form the subject matter of the infringement, including the identification of other persons involved in their production and distribution and their distribution channels, and may supply this information to the holder of the right.

Article 4.- Transitional Provision. Proceedings which were initiated prior to the entry into force of this Law shall be continued until they are settled in accordance with the provisions under which they were initiated.

Article 5.- Entry into Force. This Law shall enter into force upon its publication in the Official Gazette.

Done at the city of Managua, in the Session Room of the National Assembly, on the sixteenth day of March two thousand and six. **EDUARDO GÓMEZ LÓPEZ**, President of the National Assembly. **JOSÉ SANTOS FIGUEROA AGUILAR**, Acting Secretary, National Assembly.

Whereby: To be considered as a Law of the Republic. For publication and execution. Managua, the twenty-second of March of the year two thousand and six. **ENRIQUE BOLAÑOS GEYER**, President of the Republic of Nicaragua.
