Software Piracy in the UAE 2011- BSA Global Piracy Study

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The study, conducted in partnership with IDC and Ipsos Public Affairs is based on a survey of 14,700 computer users in 33 countries, including computer users in the UAE.

In the study various data sources were used to determine the total number of licensed and unlicensed software units installed in a country and by expressing the unlicensed software units as a percentage of the total software units installed in a country, the "piracy rate" applicable in the relevant country was determined. According to the study, the global piracy rate for PC software is approximately 42% which is valued at US$63.4 billion. The study also breaks results down to a regional level, which are set out below:

Region	2011 Piracy Rate	2011 Commercial value of unlicensed software in US$ million
Middle East & Africa	58%	4,159
North America	19%	10,958
Western Europe	32%	13,749
Central & Eastern Europe	62%	6,133
Asia Pacific	60%	20,998
Latin America	61%	7,459

The UAE has the third lowest piracy rate in the Middle East Africa region at 37%, which compares favourably with the piracy rates in other GCC countries (Bahrain 54%, Kuwait 59%, Oman 61%, Qatar 50% and Saudi Arabia 51%). Despite the comparatively low piracy rate of the UAE, the value of unlicensed software installed in the UAE is the fifth highest in the region, valued at US$208 million (South Africa US$564m, Turkey US$526m, Saudi Arabia US$449m and Nigeria US$251m).

THE ECONOMIC BENEFITS OF REDUCING SOFTWARE PIRACY

During 2010 the BSA and IDC conducted an impact study entitled The Economic Benefits of Reducing Software Piracy. The analysis conducted by IDC showed that every one US dollar spent in respect of licensed software, generates approximately US$1.25 in additional revenue for software services companies. It is well known that software piracy directly results in lost opportunities for software vendors, distributors and service providers, but the extent and value of those lost opportunities are perhaps not that clearly understood.

In the 2010 study, IDC determined that in the 42 countries surveyed a total of US$45 billion of unlicensed software was in use. In the report it is stated that the lost opportunities resulting from the use of this unlicensed software "caused total losses of revenue, employment and taxes from related sectors in excess of US$110 billion. The study also considered the impact of a possible reduction of piracy on the economy and it was found that in the UAE, a reduction of 10% in the piracy rate could lead to 841 new job opportunities. Further, a reduction of 10% in the piracy rate over a period of four years could contribute as much as US$425m to the UAE's GDP and US$566m if the 10% reduction could be achieved over a period of two years.

The Federal Government in the UAE clearly appreciates the impact that software piracy (and counterfeiting in general) has on the economy as illustrated by the 2011 circular issued by the Ministry of Economy

entitled "Anti-Piracy Circular 2011". The circular, directed at distributors, resellers and media related retailers reiterated the Ministry of Economy's commitment to combat piracy of copyrights and the intention of the Ministry to take action against entities offering for sale and selling unlicensed software. In particular the Ministry requested the relevant parties to:

- Refrain from dealing with counterfeit and / or unlicensed software, coded cards, loose certificates of authenticity and electronic products without prior permission from the copyright holder.
- Refrain from illegally copying and downloading of software.
- Maintain contacts, licenses and purchase invoices of all software and computers offered for sale or sold.
- Ensure that all software installed on computers brought for repair, maintenance or other service by customers is genuine and licensed and that the owner of the computer has a license for all software prior to receiving the computer hardware for repair, maintenance or other service; otherwise the reseller or maintenance centers will be liable for any copyright violation, unless they provide the customer with a lawfully licenced solution or refuse to perform any service in this regard.

THE RISK OF USING PIRATED SOFTWARE IN BUSINESS

The Anti-Piracy Circular 2011 refers to Federal Law No. 7 of 2002 in respect of author copyrights and parallel rights, which deals with the protection of copyright in the UAE and in particular software. Articles 37, 38 and 39 of this law provide for punishment by way of detention and fines with article 38 specifically criminalizing the downloading and saving of unlicensed software.

Article 39 extends the protection offered to software by also criminalizing the use of unlicensed software and provides that where a person uses unlicensed software in the name of, or for the account of a corporate person, commercial or professional establishment, the court may determine that that entity be closed for a period of not more than three months.

The provisions of article 39 are of particular importance especially considering that the 2011 BSA Global Software Piracy Study revealed that "business decision makers around the world admit to pirating software more frequently than do other computer users". Typically this form of piracy consists of purchasing for example one license to use software, but then installing the software on numerous machines. The implication of article 39 for employees of a business where unlicensed software is used is that they may be liable as a result of the use of that software. The other side of this coin is however, that a business may be ordered to be closed for a period of up to three months in the event that a person uses unlicensed software in the name of or for the account of the business.

Based on the above, it is clearly in the interest of employees and business owners to ensure that the software used within businesses are used lawfully. In this regard adequate organizational policies with respect to the installation, recordal of licenses and use of software must be put in place, monitored and enforced both to protect employees, but also to protect business against employees obtaining and using unlicensed software "for the account of the business".

REDUCING COPYRIGHT PIRACY THROUGH EDUCATION

The BSA suggests a basic blueprint to reduce software piracy which includes modernizing intellectual property laws, stepping up enforcement activity and ensuring that governments as significant users of software lead by ensuring that only fully licensed software is used. An important consideration raised by the BSA is an increase in public education and awareness, articulated in the 2011 BSA Global Software Piracy Study as follows:

"Reducing software piracy requires a fundamental shift in public attitudes towards software and IP. Public education is critical, therefore, to increase awareness of the importance of managing software assets and respecting creative works through compliance with software licensing."

Australia's Intellectual Property Awareness Foundation (IPAF) conducted a study in 2011 related to

attitudes and behaviors in relation to the illegal downloading of online movies and television content which revealed that there was a high level of confusion among members of the general public with respect to which activities constituted acts of copyright piracy. According to the IPAF, as many as one in three Australians may be "accidental pirates". Although the study did not relate to software specifically, the results may suggest that in other societies – such as here in the UAE – and in respect of other works in which copyright subsist – such as software – there exist a similar level of "confusion".

According to the 2011 BSA Global Software Piracy Study "experience has shown that pubic-private awareness campaigns about piracy and the value of IP can be extremely effective". In order to bring about the "fundamental shift in public attitudes" referred to by the BSA, a wide range of audiences should be educated about copyright and in particular the impact of copyright piracy on the economy. Such audiences should include schoolchildren, university students, information technology professionals and professionals in the creative industries, but also more generally business decision makers, business owners and employees.

CONCLUSION

In this article I set out to highlight the impact that software piracy has on the local economy, the risks to individuals and to businesses resulting from the use of pirated software and the need to educate the public with respect to the legal rules governing copyright. There are two clear steps that business decision makers, business owners and educators can take to address some of the risks highlighted and these are:

(i) ensuring that organizational policies with respect to the installation, recordal of licenses and use of software are put in place and monitored; and

(ii) ensuring adequate education of students, business decision makers, business owners and employees.