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THE STUDY OF PIRACY “UNDERSTANDING THE SHADOW MARKET IN MEXICO”

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ABSTRACT

This study was commissioned by the American Chamber of Commerce of Mexico (AMCHAM) and carried out by the Development Research Center, AC (CIDAC), an independent, non-profit think tank. It seeks to demonstrate the extent of the consumption of pirated products in Mexico; conduct an in-depth analysis of spending habits and consumer profiles; and consider new ways to combat piracy.

Interviews were conducted with 1,500 men and women of 15 years or older who reported to have consumed pirated products in the preceding year. During a segmentation analysis the surveyed population was divided into three groups, according to the volume and frequency of their consumption of pirated products. As the sample ensures the representation of urban and suburban areas in five regions of the country, inferences can be drawn for the entire country with a view to making recommendations for understanding piracy.

* The author of this report thanks Patricio González for this collaboration in its preparation. This report is based on the study prepared by CIDAC (Centro para la Investigación y el Desarrollo, AC), an independent non-profit think tank carrying out research and seeking to propose ideas for Mexico’s development. The views expressed in this document are those of the author and do not necessarily reflect the views of the World Intellectual Property Organization or its Member States.

I. INTRODUCTION

1. This study was commissioned by the American Chamber of Commerce of Mexico, through its Committee on Intellectual Property (IP), and carried out by the Development Research Center, AC (CIDAC), an independent, non-profit think tank that conducts research and presents viable proposals for Mexico's medium and long-term development.¹ The aim of the study is to show the scale of consumption of illicit products in Mexico; conduct an in-depth analysis of spending habits and consumer profiles; and examine new ways to combat piracy in the country. Unlike other reports on piracy, which focus on specific cities or regions, this study addresses the phenomenon throughout the country.

2. Numerous definitions exist of the terms piracy and counterfeiting. Although there is no statutory definition of piracy in Mexico, piracy, for the purposes of the study, is used to describe all offences in the area of copyright and industrial property rights mentioned by the Federal Penal Code and the Industrial Property Act. To measure piracy, the study took into account all those goods and/or services not recorded in the official registers and statistics on the economy.

II. METHODOLOGY

3. To demarcate itself from other reports in terms of approaches and results, the study adopted a methodology that would ensure the representation of urban and suburban areas in five regions, allowing inferences to be drawn for the whole country.

4. Interviews were conducted with 1,500 men and women of 15 years or older who reported that they had consumed imitated or pirated products in the preceding year.

5. Using the survey results, a segmentation analysis was conducted, dividing the population surveyed into three natural groups, on the basis of the volume and frequency of their consumption of illicit products. This allowed to discover that there are different reasons for consumption, depending on groups and circumstances, and to measure the potential impact of messages on piracy.

6. To gauge the magnitude of the consumption of pirated products in Mexico, a methodology was developed to provide an estimate of the minimum costs of the domestic piracy market in Mexico.

7. To estimate the probabilities of the various sales channels, the approach that the Organisation for Economic Co-operation and Development (OECD) had developed in its General Trade-Related Index of Counterfeiting was followed. CIDAC was able to assess the probabilities of buying pirated products through specific sales channels on the basis of the answers provided by the respondents in the National Survey of Consumer Piracy (ENCP) it had conducted in 2014. Based on these probabilities and data available from the National Income and Expenditure Survey (ENIGH), which segments the consumption of the products studied according to their place of purchase, the potential expenditure on pirated products was estimated. Given the absence of a pre-existing instrument, the ENCP 2014 probabilities were equally used to calculate estimates of piracy on the basis of the ENIGH 2010 and 2012 surveys.

¹ The study was presented on June 30, 2015, and can be consulted at: <http://www.amcham.org.mx/External/WCPages/WCWebContent/WebContentPage.aspx?ContentID=18284> and http://cidac.org/esp/uploads/1/PIRATERIA_Entendiendo_el_mercado_sombra_en_Mexico__1_.pdf.

As the ENIGH 2014 was not available when the report was prepared, the piracy of 2014 was estimated through the use of the 2012 figures updated by the average consumption growth rates for each category in the last three surveys.

III. MAIN FINDINGS

A. ECONOMIC IMPACT

8. In 2014, the piracy shadow market costed the country more than MXN 43 billion (approximately USD 2.61 billion), excluding the value of seizures of merchandise, job losses, income and the impact on the health and safety of consumers.

9. To contextualize the impact of this amount, we can say that it represents:

- 28% more than the total 2015 budget of the National Council of Science and Technology (CONACYT);
- 34 times the 2015 budget of the Mexican Institute of Industrial Property (IMPI); or
- A revenue loss of just over MXN 6 billion (approximately USD 363.9 million) in Value Added Tax (VAT).

B. PERCEPTION

10. Despite the awareness that it was illegal and had negative effects on the country, there was widespread social acceptance of piracy, which in the collective imagination was summarized as: "it's illegal, but not serious".

11. Most consumers did not link the consumption of pirated products to any possible adverse effects on their individual welfare or legal consequences from the authorities. This was occasioned by the high level of impunity and a permissive rule of law.

12. Between 40% and 63% of the respondents felt that most people in Mexico were involved in illegal or unethical conduct, such as littering the street, giving bribes, running red lights, parking in prohibited spaces and driving under the influence of alcohol.

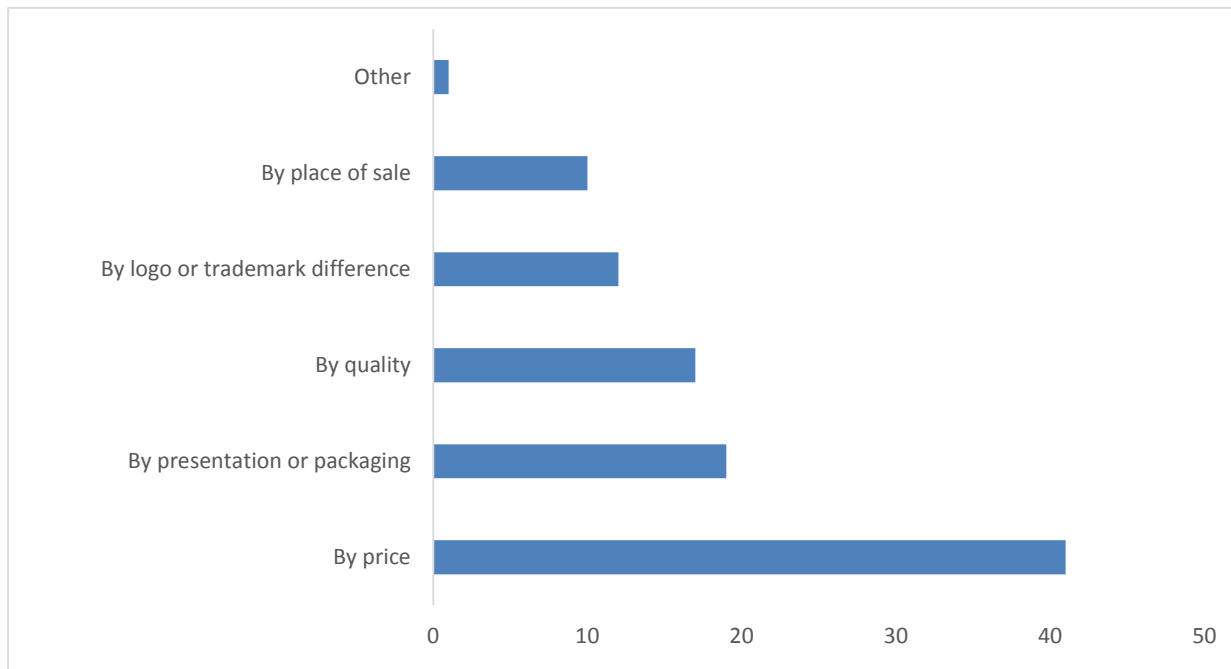
C. CONSUMPTION

13. The four product categories that were most often consumed were the following:

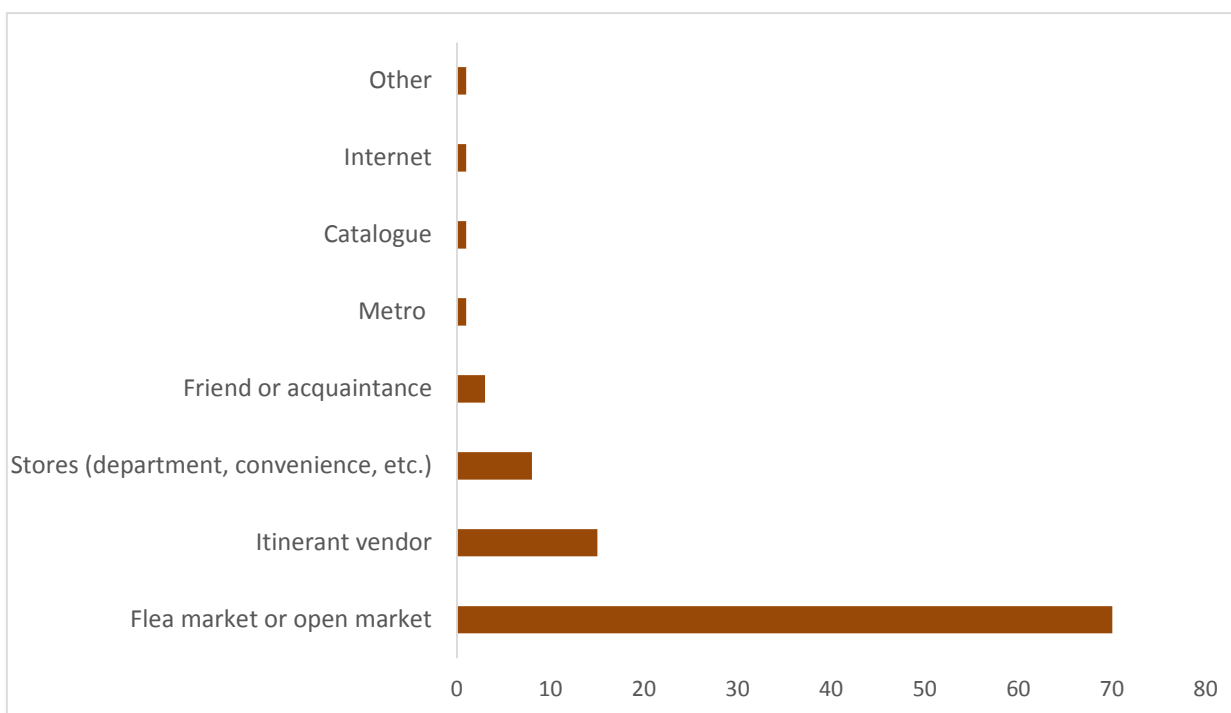
- music, films, clothing and footwear;
- cosmetics, electrical, cleaning and medical products;
- software, toys, video games, electronic and personal care products; and
- cigars and spirits.

14. The above findings are derived from the answers of respondents, from which we highlight the following questions:

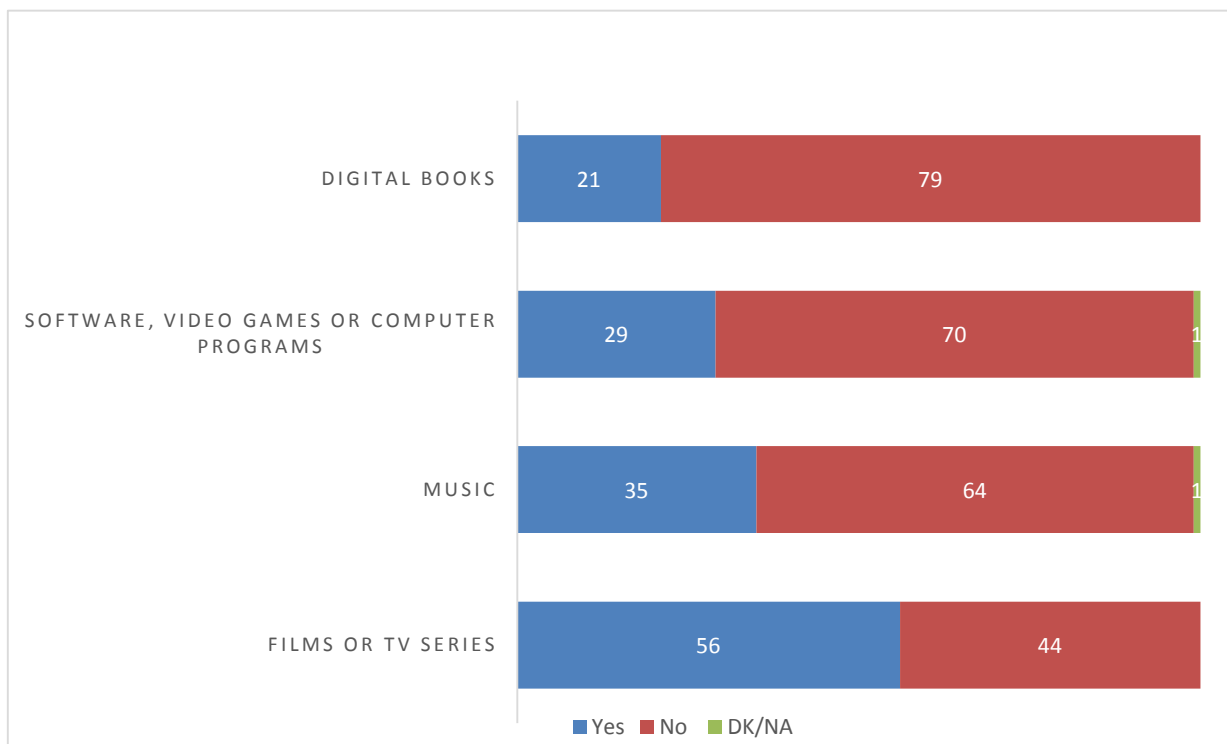
How do you identify a pirated product?



Where do you normally buy these items?

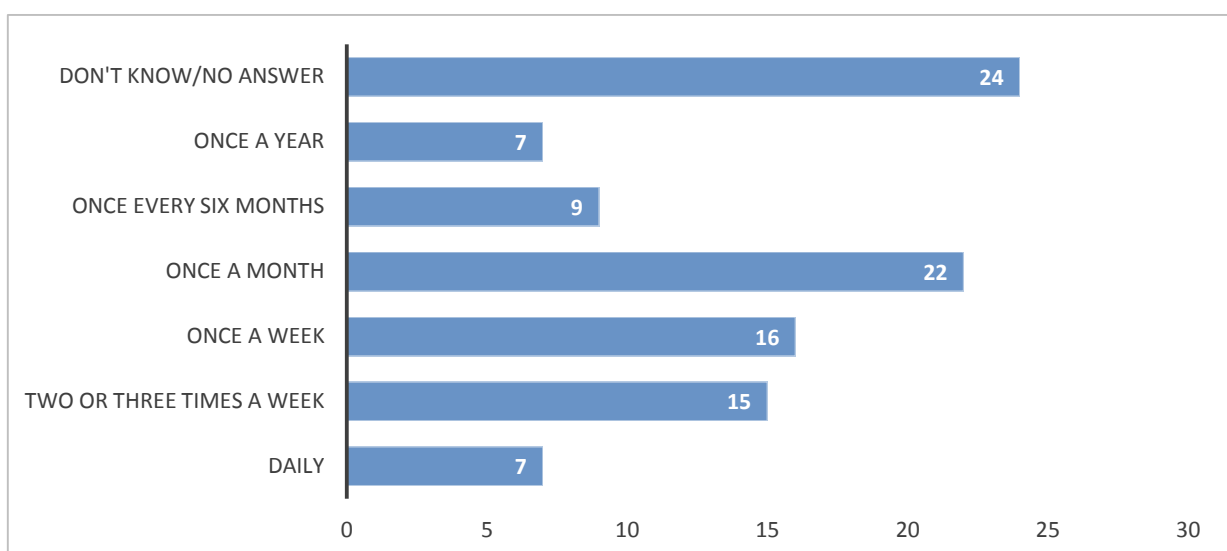


In the past year, have you accessed or downloaded from the Internet (...) pirated products?



* This question only applied to Internet users.

How often do you download or access this content?



* This question only applied to Internet users.

15. Three types of consumers were identified:

- Consumers with low consumption: their motivation was more closely related to aspirational issues and health needs;
- Consumers with moderate consumption: they did not regard piracy as something serious and pirated products were accessible to them; and
- Consumer with high consumption: they responded to aspirational or ideological issues resulting from the rise of the Internet and the gap between the cultural and financial value they attached to digital content.

16. Consumption patterns for pirated products were not homogeneous. Different consumer profiles had different decision-making processes. Influencing factors included age, purchasing power, education and the perceptions of the environment.

17. Price was not a fundamental variable; it was only relevant to a group of consumers in certain contexts.

18. Pirated products were mainly bought in flea markets and open markets. While pirated products might be marketed through all sales channels, they were less likely to penetrate highly centralized value chains and sales channels such as department stores, because of their more rigorous quality controls.

19. The Internet and the rise of social networks have been crucial to the consumption of digital piracy in Mexico. 53% of Internet users acknowledged having downloaded pirated music, films and/or TV series illegally and with significantly high frequency; in 50% of cases, they did this from home.

D. WHAT MESSAGES CAN HELP FIGHT PIRACY?

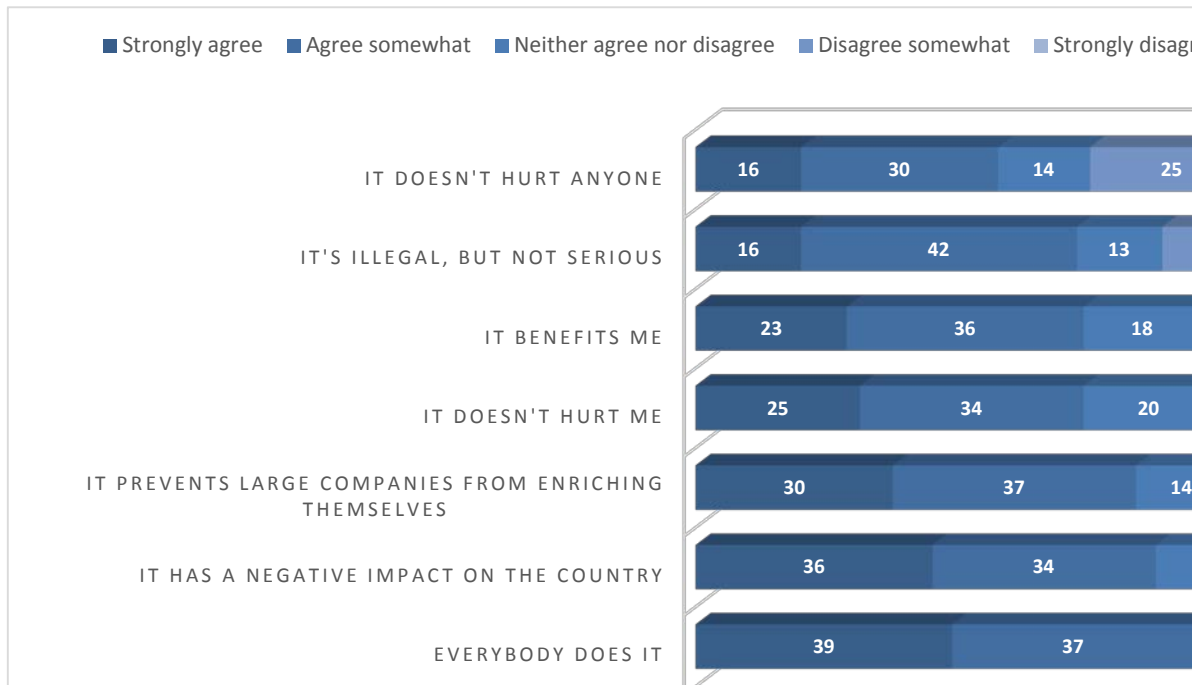
20. Consumers were particularly receptive to messages that emphasize the negative effects of consuming pirated products and the risks to their individual welfare, particularly their life and health.

21. Consumers were also receptive to messages that illustrated the link between the sale of counterfeit or pirated products and organized crime.

22. In general, people did not view pirated products as desirable or of good quality. In response to open questions, they even associated piracy with theft, corruption and fraud. Similarly, 70% of the population knew that piracy had negative effects on the country, although 58% considered that these effects are not serious.

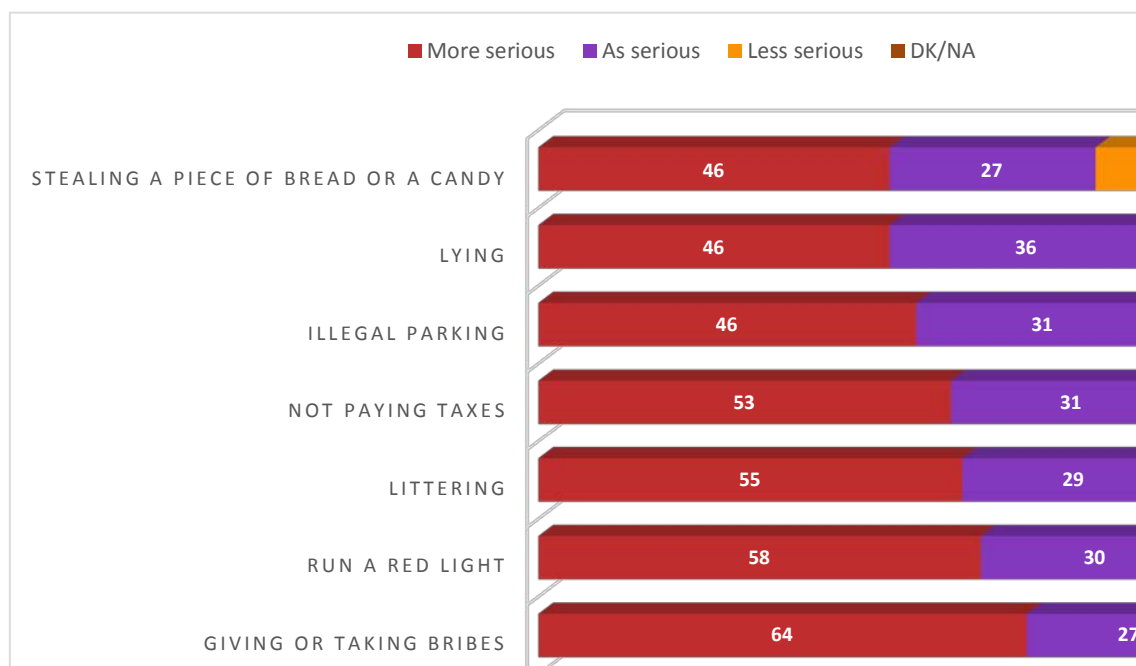
23. On the other hand, when the surveyed participants were presented with examples of illegal or unethical activities, they considered them all to be worse than piracy, including activities such as telling lies or stealing a loaf of bread or a sweet. This suggests that there is a fairly widespread social acceptance of piracy, even though most people know that it is illegal. The phrase "it's illegal, but not serious" probably best sums up the attitude to piracy in Mexico. In addressing this issue in the survey, the following question was asked:

Now I'm going to read a few sentences about piracy and consumption. For each sentence, please tell me if you strongly agree, somewhat agree, somewhat disagree or strongly disagree:



24. In addition, being asked about others engaging in illegal or unethical conduct, between 40% and 63% of the respondents answered that the majority of people told lies, threw refuse in the street, offered bribes, ran red lights, parked in prohibited spaces and drove under the influence of alcohol. This also showed that the technique of framing questions in the third person elicited more candid answers about the behavior of the respondents, since it gave rise to less resistance or rationalization.

Now I would like you to tell me if you think that the actions that I will read out are more or less serious than consuming pirated products:



25. The study also detected two reasons for illegal acts: they were believed to have no consequences or they were not considered serious. It is also important to mention the endogenous component in the answers about the reasons for consuming pirated products.

26. It is not entirely clear whether the respondents' answers about engaging in illegal behavior are consistent. Perhaps since these behaviors are not intensely or severely punished by the authorities, they deem that they are not serious, or conversely, perhaps they consider that because these behaviors are not serious the authorities do not need to prosecute them.

27. The evidence from this study led to the conclusion that people may be motivated by any of these two considerations, although each one will appeal to different people according to their socio-demographic characteristics and their access to pirated products. An example of the first view would be a housewife in the flea market who decides to buy clothing for her family, some medicine, films and food because they are easily accessible and because there is a lack of compliance with regulations, which, at least in her mind, is not considered as anything serious. An example of the second motivation would be a young student who decides to download pirated music or software because he prefers not to pay for it.

28. The study estimates that in 2014, piracy cost the country more than MXN 43 billion (approximately USD 2.61 billion), around 34% of the budget cuts announced by the Secretariat of Finance and Public Credit for 2015. That is, for every three pesos cut, one peso is spent on a pirated product. This figure is shockingly revelatory of the associated opportunity costs: if the revenue lost to piracy were collected, there would be no need to cut that one peso. Also, the amount exceeds the annual budget of the National Autonomous University of Mexico, and is double the budget of the National Electoral Institute in an election year. These calculations do not take into account the loss of jobs, loss of income and the impact on the health and safety of consumers. A better understanding of those involved, both consumers and distributors of these products, will facilitate the development of more successful and efficient solutions to piracy. The findings of this study point in that direction.

29. One of these findings is that patterns of consumption of pirated products are not homogeneous. There are different consumer profiles in terms of conceiving and processing the decision to consume pirated products, as previously noted in the tripartite segmentation. Another important distinction can be made between traditional piracy, which is the consumption of physical products (clothes, shoes, CDs, DVDs, toys, etc.) and digital piracy (software, music, video games and online films).

30. According to the survey results, physical consumption is concentrated in low and moderate consumption groups. The reasons advanced by those with low consumption were more closely related to health needs, while those with moderate consumption more often cited accessibility and did not view piracy as something serious. In this regard, it is important to emphasize that it is the environment in the country which encourages the consumption of piracy. These two groups are highly receptive to messages that discuss the effects of piracy on their individual consumption and link the negative effects of piracy to their individual welfare. In the second group, changing consumption patterns will also require media strategies and concrete action, such as increasing barriers to access these products.

31. Consumers of pirated digital products were concentrated in the third group, where consumption is high. It could be said that these are the “hard-core consumers”, those whose first choice are always counterfeit or pirated products. Similarly, these consumers are not receptive to any of the possible messages about the effects of piracy and are not expected to change their consumption patterns as a result of a media campaign. They are part of a population segment that responds to the rise of the Internet and the development of social networks, where people feel entitled to all the information and content they want for free and where content should not be bought.

Comparative table of the responses provided by the three groups consuming pirated products

Topic	Low consumption (47% of the population)	Moderate consumption (23% of the population)	High consumption (30% of the population)
Socio-demographic profile	<ul style="list-style-type: none"> No predominant gender Aged 45 or more Little education Mostly married, widowed or divorced Occupation such as studies or retirement 	<ul style="list-style-type: none"> Mostly women. Mostly aged 35-45 years Education up to secondary school No particular civil status Mainly employed people, but also an unemployed component 	<ul style="list-style-type: none"> No predominant gender Mostly young people High school, technical stream or higher. Either single or living with a partner Mostly housewives
Internet use	<ul style="list-style-type: none"> No Do not consume piracy via the Internet 	<ul style="list-style-type: none"> No Do not consume piracy via the Internet 	<ul style="list-style-type: none"> Yes Heavy downloading of pirated products.
Attitude to piracy	<ul style="list-style-type: none"> Acknowledge their consumption and if they found out some of its effects, would stop. 	<ul style="list-style-type: none"> Consider that consuming pirated products is illegal but not serious, so they will continue. There are worse things than consuming pirated products. 	<ul style="list-style-type: none"> More radical group in terms of attitude: although they are aware of some consequences and the illegality of piracy, they intend to continue consuming pirated products, <i>i.e.</i> they find it convenient.
Proposed solution	<ul style="list-style-type: none"> The three branches of government should cooperate Raise awareness among sellers of pirated products. 	<ul style="list-style-type: none"> Do not consider any measures to help combat piracy 	<ul style="list-style-type: none"> Do not consider any measures to help combat piracy

32. Even if advertising campaigns against piracy so far have been very effective in raising public awareness of the phenomenon and its possible effects, their message has reached its peak of effectiveness and new messages should be developed for consumers who are receptive to communication about piracy (low and moderate consumption groups). Based on its findings, the study recommends creating messages that emphasize the following aspects.

33. *The negative effects and risks to the individual welfare of consumers of pirated products themselves.* The more the effects of piracy are highlighted, the greater the understanding of its consequences. It is suggested in particular that the risks to security (both in relation to physical and digital products) and health inherent in certain products should be illustrated.
34. *The link between the sale of counterfeit or pirated products and organized crime.* It is very important that messages make the distinction that the sale of pirated products does not replace other criminal activities (such as drug trafficking, human trafficking and arms smuggling) but that it is a major source of funds for the operation and growth of organized crime and that the same organized crime groups engage in both these activities of which society disapproves as well as piracy, which is a fairly widely accepted illegal activity.
35. It is also suggested that figures that arouse public empathy and understanding, such as housewives, students, seniors, innovators, etc. be involved. Since the intended message will have a strong regulatory element, but also a practical and experiential one, there would be greater credibility and easier acceptance if it came from a source to which the target audience can relate.
36. As discussed above, the low consumption group consumes significant volumes of pirated medicines and other products for human consumption. It is therefore urgent for the authorities to intervene robustly in flea markets, open markets and other highly decentralized sales channels where counterfeit products are easily accessible, thus making it more difficult to purchase products that could be deleterious to health.
37. Those with high consumption (group 3) are very different from the previous category, because this group is made up of more sophisticated consumers whose first choice is piracy, with a preference for digital consumption. These are consumers who do not connect piracy with the threat of legal action by the authorities, or with effects on their individual welfare (through loss of information, violations of privacy or security, damage to computers and/or viruses or malware). These consumers have ideological and aspirational reasons for their consumption. As a result, awareness-raising campaigns targeting them might be less effective. At one extreme, it might be surmised that behind the attitude of these consumers is the continuing misconception that digital content should circulate free even when they violate IP rights and could adversely affect the creators whom these consumers admire, along with the integrity, privacy and safety of these consumers themselves.
38. The attitude of these consumers to piracy is very complex, so major research focusing on them is necessary. Additionally, it is important for the authorities and research centers to explain more clearly the differences between digital piracy, access to information, innovation and free trade of digital content to avoid confusion in society and an inappropriate attitude to these issues. Similarly, alternative platforms that allow free use of digital content without violating IP rights and inhibiting the generation of added value and innovation should be considered.
39. Finally, it is necessary to stop oversimplifying, as has been done previously, the phenomenon of piracy. Holding, for example, that pirated products are consumed because they are cheaper is an oversimplification of the phenomenon that misapprehends its complexity. Price is only a relevant variable for some users in some contexts. A full understanding of issues such as accessibility and availability of pirated products in retail outlets and the consumer profile and type of consumption is fundamental to any solution or proposal.

40. The costs of acquiring pirated products should be significantly raised by the monitoring authorities through strict law enforcement and elimination of regulatory loopholes that allow easy national and cross-border marketing of these products. In addition, the idea should be spread that IP violations are not just low-risk or less serious crimes, as they affect the process of creating value for businesses, consumers, the treasury and, ultimately, Mexican society as a whole.

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