

Piracy, Trademark Counterfeiting, and Deceptive Use of Government Identity

What the proposed criminal law reform would do, which conduct it would cover, and what it does not provide.

Pending in the Senate

Initiative of the Federal Executive.

170 UMA threshold

About MXN \$19,942.70 for reference.

4 to 10 years in prison

For disclosing works before their release.

The manufacture and sale of products bearing counterfeit trademarks, the distribution of unauthorized copies of films or books, and the disclosure of works before their release may harm creators, businesses, and consumers. These activities may take place in physical establishments as well as through online stores and other digital channels.

The bill seeks to expand the conduct subject to sanctions, increase various penalties, and facilitate prosecution.

The reform would amend the **Federal Criminal Code (Código Penal Federal)** and the **Federal Law for the Protection of Industrial Property (Ley Federal de Protección a la Propiedad Industrial)**. It also proposes an offense relating to the deceptive use of elements that identify public institutions, such as their logos, electronic domains, or official documents.

Scope and Legislative Status

The reform stems from an initiative submitted by the Federal Executive to the Senate and **remains in the legislative process**. The amendments described herein should not be considered to be in force, and their content may change before final approval and potential publication in the Official Gazette of the Federation (Diario Oficial de la Federación).

Although it has also been referred to as the “Anti-Meme Law,” this proposal is distinct from the reform to the Federal Copyright Law concerning the liability of internet service providers.

What Does Acting on a Commercial Scale Mean?

The proposal introduces a **commercial scale** criterion covering activities aimed at obtaining economic benefits or competitive advantages, as well as acts that significantly harm the market position of the rights holder, even where no profit is sought.

Selling copies

Selling unauthorized copies of a computer program may pursue a direct economic benefit.

Free distribution

Distributing them free of charge could also be covered if it causes the significant harm contemplated and meets the other legal requirements.

The text requires an economic threshold of **170 UMA** (Unidades de Medida y Actualización, Mexico’s unit of account), equivalent, for reference, to **MXN \$19,942.70 at the 2026 UMA value**. It is calculated based on the retail price of the legitimate product or service, not necessarily on the profit obtained. In certain related shipments, their values could be aggregated over a period of up to 90 calendar days.

Exceeding that amount is not sufficient to constitute an offense: the other elements of the sanctioned conduct must also be established.

Higher Penalties and New Sanctionable Conduct

The reform would increase various penalties for unauthorized exploitation of works, marketing of illicit copies, and circumvention of technological protection measures. It would also expand the circumstances related to export, financing, and offers for sale.

One of the most significant changes is the express sanction for **disclosing, publishing, communicating, or distributing protected works without authorization before their**

official release or first authorized availability in Mexico. Examples include leaking a film before its premiere or distributing a book before its launch.

Proposed penalty: four to ten years in prison and 2,000 to 20,000 days' fine.

This provision does not expressly require that the disclosure be carried out on a commercial scale. In addition, days' fine (días multa) should not be confused with UMA, as they follow different calculation rules.

Deceptive Use of Government Identity

The proposal would penalize the use, reproduction, or imitation, on a commercial scale, of the graphic identity, electronic domains, or official documents of public institutions in order to mislead as to their official origin, with the intent to commit an unlawful act.

An illustrative scenario would be a website that uses a government agency's identity elements to appear to offer an official procedure and obtain fraudulent payments. Classifying it as an offense would require establishing all elements of the crime, including commercial scale.

Contemplated penalty: one to five years in prison and a fine of 1,000 to 10,000 UMA, equivalent, for reference, to MXN \$117,310 to \$1,173,100 at the 2026 UMA value.

Are Memes, Satire, or Criticism Prohibited?

The text analyzed **does not establish an express prohibition of memes, satire, or political criticism.** The mere use of a government logo would not suffice to constitute the offense: commercial scale and the purpose of deceiving with intent to commit an unlawful act must also concur.

However, the proposal does not include an express exclusion for parodies, satirical expression, or journalistic activities either. Its interpretation will need to consider the elements of the offense and the protection of freedom of expression. It will also be important to clarify how the economic threshold would be calculated when institutional elements without an identifiable retail price are used.

Investigation of Offenses and Corporate Liability

Ex officio prosecution

Certain trademark counterfeiting offenses would be prosecuted **ex officio**, without depending on a complaint from the affected rights holder. In addition, the prior technical opinion of the IMPI would no longer be required to initiate criminal proceedings in the cases covered by the reform.

Legal entities

The catalog of offenses for which legal consequences may be imposed on legal entities would be expanded. This could be relevant, for example, when a company is involved in the production, distribution, or financing of illicit goods.

Corporate liability would not be automatic: the applicable legal requirements would have to be met.

Reparation of Damage

Minimum reparation

The proposal contemplates a minimum reparation tied to **40% of the retail price of the corresponding legitimate products or services**. This percentage already has precedents in the legislation; the reform adjusts its wording and calculation reference.

Compensatory amount

In addition, it would allow the affected person to opt for a compensatory amount of **340 to 50,000 UMA**, equivalent, for reference, to **MXN \$39,885.40 to \$5,865,500** at the 2026 UMA value, taking into account the circumstances of the conduct, its dissemination, the harm caused, and the probable economic benefit.

These amounts correspond to reparation of damage, **not to fines**. The peso equivalents are illustrative and will depend on the UMA value that applies.

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