

WTO Ruling Could Further Open China to U.S. Entertainment Industry

Edward Cody and Annys Shin
Washington Post
August 13, 2009

PARIS, Aug. 12 -- Responding to a U.S. complaint, the World Trade Organization ruled Wednesday that China was violating international trade rules by restricting the import of American books, movies and music recordings.

The ruling, handed down by a three-member panel in Geneva, was hailed as a victory for the U.S. entertainment industry, opening wider the door into China's 1.3-billion-strong market for U.S. companies that distribute films, publish books, produce CDs and sell online downloads of popular songs.

"Today a WTO panel handed a significant victory to America's creative industries," Ron Kirk, the U.S. trade representative, said in a statement. "These findings are an important step toward ensuring market access for legitimate U.S. products in the Chinese market, as well as ensuring market access for U.S. exporters and distributors of those products."

The WTO ruling said China's regulations, which largely channel distribution of foreign audio-visual material through state-owned companies, were inconsistent with its pledges on entering the WTO in 2001 and with the 1994 General Agreement on Tariffs and Trade. It said the WTO should therefore order China "to bring the relevant measures into conformity with its obligations under those agreements."

The Chinese government had no immediate reaction. But the Chinese foreign minister, Yang Jiechi, said in a speech in Geneva that China was committed to international trade rules and would carry out its obligations under WTO procedures.

"China will never seek to advance its interests at the expense of others," he said shortly before the ruling, according to the Reuters news agency.

China or the United States could appeal the ruling. If China does not comply with the distribution ruling, the United States would have to go back to the WTO before it could retaliate, a process that can take years.

China chose not to appeal a separate WTO ruling issued in January that said it could not deny copyright protection to some goods and that it should have criminal sanctions in cases of intentional commercial piracy. The two cases, both filed in April 2007, are among several disputes the United States and China have taken to the WTO. The United States and Europe also recently accused China of hoarding raw materials used in the production of aluminum and steel,

while China filed a case objecting to policies that block Chinese chicken exports to the United States.

The decision in the distribution case centered on China's requirement that audiovisual imports must be distributed by small number of state-owned enterprises. The United States, in a complaint brought two years ago, said this obligated U.S. distributors to pay an unnecessary layer of costs, putting the U.S. firms at a disadvantage in violation of fair trade rules.

A giant pirate recording industry has stepped into the price gap. The Chinese government repeatedly has pledged to suppress the industry, but periodic police crackdowns have produced little change.

Easing restrictions on the distribution of DVDs is not likely to stop bootleg sales of "Transformers" and "Harry Potter" flicks on Shanghai sidewalks, either. But it will "complement our strategy to fight movie piracy in China," Motion Picture Industry Association chief executive Dan Glickman said in the statement, by "promoting the growth of legitimate U.S. movies in a market that is growing rapidly, and with great potential."

The panel limited its consideration to business and trade, declining to take up a U.S. contention that one reason China was violating trade rules with import procedures was to impose censorship. Although the main U.S. argument was that China is unfairly protecting its own audio-visual industry, the objection over censorship was potentially the more far-reaching aspect of the dispute.

The ruling Communist Party has maintained stringent restrictions on what Chinese people can see, read or listen to. In the eyes of party leaders, unbridled access to foreign literature, cinema, music or journalism would threaten their monopoly on power. Any ruling that called on them to soften the censorship laws would probably have found a hostile reception in Beijing.