

Regulations on the Protection of Rights to Information Network Communication (Revised in 2013)

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Order of the State Council No. 634

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Article 1 For the purpose of protecting the rights to information network communication of the copyright owners, performers and producers of audio-visual products (hereinafter referred to as the owners) and encouraging the production and spread of the works which are conducive to the development of socialist spiritual civilization and material civilization, these Regulations are formulated in accordance with the Copyright Law of the People's Republic of China (hereinafter referred to as the Copyright Law).

Article 2 The owners' rights to information network communication shall be subject to the protection by the Copyright Law and these Regulations. Unless otherwise prescribed by any law or administrative regulation, any organization or individual which provides the general public with any other person's works, performance or audio-visual products through the information network shall obtain the owner's permission and pay rewards.

Article 3 The works, performance or audiovisual products which are prohibited from being provided pursuant to law are not subject to the protection by these Regulations.
No owner who exercises the rights to information network communication may violate the Constitution, relevant laws and administrative regulations or injure any public interests.

Article 4 An owner may adopt technical measures for the purpose of protecting the rights to information network communication.

No organization or individual may purposely avoid or break technical measures, purposely manufacture, import or provide the general public with any equipment or component that is mainly applied to avoiding or

breaking technical measures, or purposely provide technical services for any other person to avoid or break technical measures, unless otherwise provided by any law or administrative regulation that the relevant technical measures may be avoided.

Article 5 No organization or individual may conduct any of the following acts without the owner's permission:

1. Purposely deleting or changing the electronic information on the right administration of works, performance or audio-visual products provided to the general public through the information network, unless it is impossible to avoid deleting or changing such information due to technical reasons; or
2. Providing, through the information network, any work, performance or audio-visual product whose electronic information on right administration has been deleted or changed without the owner's permission to the general public who obviously know or should have known about the deletion or change.

Article 6 Where anyone provides any other person's work through the information network, which involves any of the following circumstances, he/she may be exempted from obtaining the owner's permission and paying rewards thereto:

1. Where an appropriate portion of any published work is quoted in the works provided to the general public for the purpose of introducing or commenting on any work or elaborating on any issue;
2. Where it is inevitable to reproduce or quote any published works in the works provided to the general public for the purpose of making any news release;
3. Where a small quantity of published works are provided to some people who engage in teaching or scientific research for the purpose of classroom teaching or scientific research;
4. Where any state organ provides the general public with any published work within a reasonable range for the purpose of exercising its official duties;
5. Where the works that have been already published by any Chinese citizen, legal person or any other organization in Chinese are translated into any language of any minority ethnic group and are provided to such people within the territory of China;
6. Where any published work is provided to the blind in a particular way perceptible to the blind and not for the purpose of making profits;
7. Where any article on current affairs such as political and economic issues that has been published through the information network is provided to the general public; or
8. Where a speech as delivered in a public gathering is provided to the general public.

Article 7 A library, archives, memorial, museum or art gallery, etc. may, without the owner's permission, provide to their objects of service with relevant digital works as lawfully published and preserved by the aforesaid institutions as well as the works that shall, pursuant to law, be subject to digital photocopying for display or preservation through the information network within their place and without paying any rewards to the owners. However, the aforesaid institutions may not directly or indirectly seek for any economic interest from such activities, unless otherwise stipulated by the parties concerned.

The works subject to digital photocopying for display or preservation as prescribed in the preceding paragraph shall be the works that have been damaged or destroyed, or are almost damaged or destroyed, are lost or stolen, or whose storage format has been out-of-date, and which cannot be purchased through the market channel or can only be purchased at a price obviously higher than the standardized one.

Article 8 For the purpose of implementing the nine-year compulsory education or state education plans through the information network, the fragment of published works, short written works, musical works or a single work of fine art, or photographic works may be used for making courseware without the owner's permission, and the long-distance education institutions which have made the courseware or acquired courseware pursuant to law may provide such courseware to the registered students through the information network, but shall pay rewards to the owner.

Article 9 Where for the purpose of alleviating property, any works on planting and breeding, disease

prevention and cure, disaster prevention and relief, etc. as well as the works that meet the basic cultural demands that have been published by any Chinese citizen, legal person or other organization are provided to the general public in rural areas free of charge through the information network, the network service provider shall announce in advance the provided works as well as the authors and rewards thereof before the works are actually provided. Where the owner refuses to provide his/her works within 30 days of the announcement, the network service provider shall not provide his/her works. Where 30 days elapse as of the announcement and the owner has no objection, the network service provider may provide his/her works and pay rewards to the owner in accordance with the announced criteria. If the owner objects to providing his/her works after the network service provider provides any of his/her works, the network service provider shall immediately delete the owner's works and pay relevant rewards corresponding to the display period of the owner's works in accordance with the relevant announced criteria.

As for the works provided in accordance with the regulations of the preceding paragraph, no economic benefit may be directly or indirectly obtained.

Article 10 Where any work is provided to the general public through the information network without the owner's permission in accordance with these Regulations, the following regulations shall be abided by as well:

1. Except for the circumstances as prescribed in Item 1 to 6 of Article 6 as well as Article 7 of these Regulations, the work whose author has announced in advance that his/her works are prohibited from providing shall not be provided;
2. The names of works and the names of authors (titles) shall be specified;
3. Rewards shall be paid in accordance with these Regulations;
4. Technical measures shall be taken to prevent any person other than the service objects as prescribed in Article 7, Article 8 and Article 9 of these Regulations from obtaining the owner's works and to prevent any material damage caused by the service object's act of photocopying as prescribed in Article 7 of these Regulations; and
5. None of the other rights of the owner may be infringed upon.

Article 11 Anyone who provides others with performance or audio-visual products through the information network shall abide by the regulations of Articles 6 to 10 of these Regulations.

Article 12 Under any of the following circumstances, the relevant technical measures may be avoided. However, the techniques, equipment or components used for avoiding the technical measures may not be provided to any other person and the other rights enjoyed by the owner pursuant to law may not be infringed upon:

1. Where any published works, performance or audio-visual products are provided to a small number of people who engage in teaching or scientific research through the information network for the purpose of classroom teaching or scientific research, and the aforesaid works, performance or audio-visual products can only be accessed through the information network;
2. Where any of the written works that have been published is provided to the blind in a particular way perceptible to the blind through the information network and not for the purpose of making profits, and the aforesaid works can only be accessed through the information network;
3. Where any state organ exercises its official duties in accordance with administrative and judicial procedures; or
4. Carrying on any testing on the computer as well as its system or the safety performance of the network through the information network.

Article 13 The copyright administrative departments may, for the purpose of investigating into the infringement upon the rights to information network communication, require relevant network service provider to provide materials such as the names, contact information, and the web addresses of its service objects that are suspected of infringement.

Article 14 With respect to a network service provider that provides information memory space, or searching or linking services, if the owner believes that any of the works, performance or audio-visual products involved in the services has infringed upon his/her rights to information network communication or his/her electronic information on right administration has been deleted or changed, he/she may file a written notice with the network service provider, requesting it to delete his/her works, performance or audio-visual products or to cut off the links to the works, performance or audio-visual products. The following contents shall be included in the notice:

1. Name, contact information and address of the owner;
2. The names of the infringed works, performance and audio-visual products that are required to be deleted or the web sites whose links are required to be cut off; and
3. The preliminary certification materials on infringement.

The owner shall be responsible for the authenticity of his/her notice.

Article 15 After receiving a notice from the owner, the network service provider shall immediately delete the works, performance or audio-visual products that are suspected of infringement, or cut off the links to the relevant works, performance or audio-visual products that are suspected of infringement and shall simultaneously forward the notice to the service objects that receive the relevant works, performance or audio-visual products. Where the web site of a service object is not clear and therefore it is impossible to forward the notice, the contents of the notice shall be simultaneously announced on the information network.

Article 16 Where a service object receives a notice forwarded by a network service provider and deems that the works, performance or audio-visual products it provides have not infringed upon any other person's right, it may file a written statement with the network service provider, requesting it to recover the deleted works, performance or audio-visual products, or recover the links to the relevant works, performance or audio-visual products. The following contents shall be included in the written statement:

1. Name (title), contact information and address of the service object;
2. The names of the works, performance or audio-visual products and the web sites that are requested for recovery; and
3. The preliminary certification materials on non-infringement.

The service object shall be responsible for the authenticity of the written statement.

Article 17 After receiving a written statement from a service object, the network service provider shall immediately recover the deleted works, performance or audio-visual products, or recover the links to the relevant works, performance or audio-visual products and shall simultaneously transfer the statement of the service object to the relevant owner. The owner shall not notify the network service provider to delete the works, performance or audio-visual products, or cut off the links to the relevant works, performance or audio-visual products any more.

Article 18 Where anyone violates these Regulations, which involves any of the following infringements, he/she shall, based on actual situation, assume civil liabilities such as stopping the infringement, eliminating negative impacts, making an apology and compensating for the losses incurred, etc. Where the public interests are damaged at the same time, the copyright administrative departments may order it to stop the infringement, confiscate its illegal gains and where the illegal turnover is more than CNY50,000, a fine not less than once and not more than five times of the illegal turnover may be imposed; where there is no illegal turnover or any illegal turnover not more than CNY50,000, a fine not more than CNY250,000 may be imposed according to the seriousness of the case. In case of any serious circumstances, the copyright administrative departments may confiscate equipments such as computers, etc. that are mainly used for network services. Where a crime is constituted, the criminal liabilities shall be investigated pursuant to law:

1. Providing without permission any work, performance or audio-visual product to the general public through

the information network;

2. Purposely avoiding or damaging technical measures;
3. Purposely deleting or changing the electronic information on the right administration of works, performance or audio-visual products provided to the general public through the information network, or providing, through the information network, any work, performance or audio-visual product whose electronic information on right administration has been deleted or changed without the owner's permission to the general public who obviously know or should have known about the deletion or change;
4. Overstepping the prescribed scope in providing any works, performance or audio-visual products to rural areas through the information network for the purpose of alleviating poverty, or failing to pay rewards in accordance with the announced criteria, or failing to immediately delete the works, performance or audio-visual products that the owners disagree to provide; or
5. When providing any other person's work, performance or audio-visual product through the information network, failing to clarify the name of the work, performance or audio-visual product or names of relevant authors, performers, or producers of the audio-visual product, or failing to pay rewards, or failing to take technical measures in accordance with these Regulations to prevent any person other than the service objects from obtaining other person's work, performance or audio-visual product, or to prevent any material damage caused to the owner's rights and interests due to the service object's act of photocopying.

Article 19 Where anyone violates these Regulations, which involves any of the following infringements, the copyright administrative departments may give a warning, confiscate his/her illegal gains and confiscate the equipment or components that are mainly used for avoiding or damaging technical measures. In case of any serious circumstances, equipments such as computers, etc. that are mainly used for network services may be confiscated and where the illegal turnover is more than CNY50,000, a fine not less than once and not more than five times of the illegal turnover may be imposed; where there is no illegal turnover or any illegal turnover not more than CNY50,000, a fine not more than CNY250,000 may be imposed according to the seriousness of the case. Where a crime is constituted, the criminal liabilities shall be investigated pursuant to law:

1. Purposely manufacturing, importing or providing any other person with any equipment or component that is mainly applied to avoiding or breaking technical measures, or purposely providing technical services for any other person to avoid or break technical measures;
2. Providing any other person's works, performance or audio-visual products through the information network to gain economic benefits; or
3. When providing any work, performance or audio-visual product to rural areas through the information network for the purpose of alleviating poverty, failing to publicize the name of the work, performance or audio-visual product or names of relevant authors, performers, or producers of the audio-visual product and the criteria for rewards before they are provided.

Article 20 Where any network service provider provides the network automatic access service pursuant to the instructions of service objects, or provides the service of automatic transmission of works, performance or audio-visual products to its service objects, and the following conditions are satisfied, it shall not be required to assume the liability for compensation:

1. Having not chosen or changed the transmitted works, performance or audio-visual products; and
2. Providing the works, performance or audio-visual products to the designated service objects and preventing any person other than the designated service objects from obtaining the access.

Article 21 Where a network service provider obtains the works, performance or audio-visual products from any other network service provider for the purpose of improving the efficiency of network transmission and automatic storage, and automatically provides the aforesaid work to its service objects based on technical arrangement, and the following conditions are satisfied, it shall not be required to assume the liability for compensation:

1. Having not changed any of the works, performance or audio-visual products that are automatically stored;

2. Having not affected the original network service provider of the works, performance or audio-visual products in grasping the information on the relevant works, performance or audio-visual products received by the service objects; and
3. When the original network service provider revises, deletes or shields the works, performance or audio-visual products, automatically revising, deleting or shielding in accordance with technical arrangement.

Article 22 Where a network service provider provides information memory space for its service objects to provide the general public with the works, performance or audio-visual products through the information network, and the following conditions are satisfied, it shall not be required to assume the liability for compensation:

1. Clearly indicating that the information memory space is provided to the service objects and publicizing the name, contact information and web sites of the network service provider;
2. Having not changed the works, performance or audio-visual products provided by the service objects;
3. Having no knowledge of or without justifiable reason to know the infringement of the works, performance or audio-visual products provided by the service objects;
4. Having not gained any economic benefit from the works, performance or audio-visual products provided by the service objects; and
5. After receiving a notice from the owner, deleting the works, performance or audio-visual products that the owner regards as constituting infringement in accordance with these Regulations.

Article 23 Where a network service provider provides any searching or linking service for its service objects or cuts off the links to any infringing work, performance or audio-visual product in accordance with these Regulations after receiving a notice from the owner, it shall not be required to assume the liability for compensation; However, when anyone is fully aware or should have known that any of the linked works, performance or audio-visual products constitutes any infringement, it shall assume the liability of joint infringement.

Article 24 Where the network service provider, due to the owner's notice, wrongly deletes or cuts off the link to any work, performance or audio-visual products and therefore causes any losses to its service objects, the owner shall assume the liability for compensation.

Article 25 Where any network service provider, without any justifiable reason, refuses or delays to provide materials such as the name (title), contact information and web sites, etc. of its service objects that are suspected of infringement, the copyright administrative departments shall give it a warning. In case of serious circumstances, the equipment such as computers, etc. that is mainly used for network services shall be confiscated.

Article 26 The definitions of the terms in these Regulations are as follows:

The term "rights to information network communication" shall refer to the right to provide the works, performance or audio-visual products to the general public in a wire or wireless manner so that the general public may have access to the works, performance or audio-visual products at the time and place that individuals have chosen.

The term "technical measures" shall refer to the valid techniques, equipment or components that are used for preventing or restricting the browse or appreciation of works, performance or audio-visual products without the owner's permission, or for prevention from providing the works, performance or audio-visual products to the general public through the information network without the owner's permission.

The term "electronic information on right administration" shall refer to the information elaborating on the works and the authors thereof, the performance and the performers thereof, the audio-visual products and the producers thereof, the information on the owners of the works, performance or audio-visual products and application conditions, and the digits or codes representing the aforesaid information.

Article 27 These Regulations shall come into force as of July 1, 2006.