

**PRIME MINISTER SOCIALIST REPUBLIC OF VIETNAM**

No: 36/2008/CT-TTg **Independence – Freedom – Happiness**

*Hanoi, December 31, 2008*

**INSTRUCTION**

**On strengthening the management and implementation  
of copyright and related rights protection**

The State has given special attention to the protection of copyright and related rights for years. Accordingly, important progress has been made in the study, making, perfection and enforcement of law in the field. The rights and legitimate interests of copyright holders have been protected step by step. A number of ministries, sectors and localities have formulated their own programs to deploy copyright and related rights protection specifically and effectively. Many organizations and individuals entitled to copyright have also taken measures to self-defend their rights. Collective copyright and related rights management organizations have been formed and they have initially undertaken active and encouraging activities.

However, copyright infringement has occurred in almost all fields, varying in patterns and spheres, particularly in music, literature, computer programs, phonograms, videograms radio and television broadcasts, digital technology... etc. The violations have caused economic damages and left negative effects on creative forms, the investment environment, economic, social and cultural development and the nation's integration into the world economy.

The main causes of the situation (copyright infringement) were that organizations and individuals gained little awareness and understanding of the law on copyright and related rights, particularly their sense of obedience of law when using the copyrighted work was still limited. In addition to that, weak capacity of authorities working with copyright and related rights protection at all levels made them fail to perform the work as required by law.

To continuously speed up the strict and effective implementation of Vietnamese legal regulations and international commitments regarding the protection of copyright and related rights, the Prime Minister instructs the following tasks:

1. The ministers, heads of ministerial-level agencies, government-attached agencies, and chairmen of provincial and centrally-run municipal people's committees shall be responsible for:

a) Drastically guiding and taking specific measures to undertake the protection of copyright and related rights for copyright holders who are under their scope of management.

Formulating plans to deploy the implementation of copyright and related rights protection in their ministries, sectors and localities. Increasingly instructing and carrying out regular or random inspection of enforcement of the law on copyright and related rights in their affiliates to promptly deal with violations in the field in accordance with legal regulations.

b) Delegating an appropriate unit to undertake the duties of advising and guiding affiliated units to exercise legal obligations when using the copyrighted work, performance, phonograms, videograms and radio and television broadcasts under authorized jurisdictions;

c) Creating conditions and assisting collective copyright and related rights management

organizations in implementing the rights stipulated by law, especially in granting licenses, collecting and operating royalties coming from the use of protected works, performance, phonograms, videograms and radio and television broadcasts; and monitoring these organizations' operation under authorized jurisdictions;

d) Quickly issuing documents and guidance for the implementation of State management over copyright and related rights as stipulated in Clause 2, Article 7 of Decree 100/2006/ND-CP on detailing and guiding the execution of a number of articles regarding copyright and related rights contained in the Civil Code and the Intellectual Property Law adopted by the Government on September 21, 2006;

d) Within authorized jurisdictions, proactively coordinating with the Ministry of Culture, Sports and Tourism to carry out activities regarding copyright and related rights protection, particularly activities involving consultancy, law dissemination, promotion and education, implementation, inspection and the handling of violations occurred in their ministries, sectors, localities.

2. Ministry of Culture, Sports and Tourism is assigned to do the following tasks:

a) Further intensifying surveillance, inspection and detection work in order to give strict and prompt clampdown on infringement of copyright and related rights;

b) Inspecting the enforcement of law on copyright and related rights in production, business and services concerned nationwide in the first quarter of 2009 and proposing the Prime Minister necessary measures be taken to reinforce law enforcement in the field in the second quarter of 2009. Concentrating on the fields where violations often occur, triggering serious economic damages for individuals, organizations and investors concerned. Collaborating with the courts, the procuracy and other judicial agencies in investigating as well as dealing with copyright and related rights violations strictly and promptly;

c) Providing more personnel, material facilities, means and favorable conditions for its units in charge of undertaking the management and implementation of copyright and related rights; training and organizing refresher courses for key staffers working with the management and execution of copyright and related rights nationwide;

d) Assuming the prime responsibility for, and coordinating with the Ministry of Justice in, continuing to perfect the law on copyright and related rights;

d) Promoting the dissemination, promotion, and education of the law on copyright and related rights; publishing books and magazines specialized on copyright and related rights;

e) Instructing hotels and entertainment facilities to seriously fulfill an obligation to pay fees for using the copyrighted works, phonograms, videograms and radio and television broadcasts;

g) Guiding the Vietnam Musicians' Association, the Vietnam Writers' Association, and the Recording Industry Association of Vietnam to formulate projects on "Enhancing management capacity and effective implementation of copyright and related rights protection", specifically for their own field, for submission to the Prime Minister for approval.

Assisting and creating conditions for the establishment and operation of other collective management organizations.

3. The Finance Ministry shall be responsible for:

a) Assuming the prime responsibility for, and coordinating with other relevant government ministries and sectors in, allocating State budget and guiding State budget-subsidized agencies and units to prepare budget estimations for copyrights purchase.

b) Instructing the customs office to take measures to prevent exports and imports of products that violate the law on copyright and related rights; concentrating on dealing with computer programs, phonograms, videograms that are imported or exported illegally.

4. The Ministry of Industry and Trade is tasked to guide the market management force to

inspect and seriously deal with organizations and individuals who distribute goods that infringed legal regulations on copyright and related rights in local markets.

Guiding and inspecting traders, businesses, restaurants, supermarkets, shops, karaoke bars in fulfilling their obligation to pay agreed royalties for using the copyrighted work, phonograms, videograms and radio and television broadcasts.

5. The Ministry of Information and Communications shall be in charge of:

a) Assuming the prime responsibility for, and coordinating with the Ministry of Culture, Sports and Tourism in, outlining documents to identify responsibilities of providers of internet, telecommunication services and other intermediate services relating to copyright and related rights;

b) Guiding organizations and individuals who have engaged in applying and promoting information technology to abide by legal regulations on copyright and related rights. Instructing, guiding and inspecting affiliates in fulfilling their obligation of asking for permissions and paying royalties for the use of the copyrighted work, performance, phonograms, videograms and radio and television broadcasts, and other related legal obligations;

c) Instructing the news and press agencies to disseminate and promote information on law and law enforcement regarding copyright and related rights.

6. The Ministry of Public Security is tasked to instruct the deployment of measures to intensify inspection, prevention and fight against violations of copyright and related rights; immediately and effectively prevent infringements of copyright and related rights in production, business, export, import, storage, distribution of goods, and services.

7. The Defense Ministry is assigned to instruct the border guard force to intensify patrols and inspection for discovering and handling storage and cross-border transport of goods infringed copyright and related rights.

The border guard force is required to coordinate with customs officers posted at border gates to prevent the import and export of commodities infringed copyright and related rights.

8. The Ministry of Foreign Affairs is assigned to instruct and guide Vietnamese representative offices abroad to garner information on copyright and related rights and use them as a source of supportive information and advices to assist Vietnamese organizations and individuals in their transactions involved copyright and related rights; support Vietnamese individuals and organizations to protect their rights and legitimate interests relating to copyright and related rights when they are used abroad; work with authorized foreign agencies to prevent infringements of rights and legitimate interests of Vietnamese individuals and organizations.

9. The Ministry of Education and Training shall assume the prime responsibility for, and coordinate with the Ministry of Culture, Sports and Tourism in, promoting the development of lectures on copyright and related rights in curriculum at universities, colleges and specialized schools.

10. Central and local media agencies shall be responsible for:

a) Strictly fulfilling legal obligations to authors, performers, and producers of phonograms, videograms and radio and television broadcasts when using their products;

b) Promoting dissemination, promotion and education of the law on copyright and related rights; creating special columns devoted to copyright and related rights; organizing competitions on copyright and related rights.

11. Organizations and individuals, especially State agencies, mass organizations, and businesses are requested to set an example in fulfilling their legal obligations regarding copyright and related rights when using the copyrighted work, performance, phonograms, videograms and radio and television broadcasts.

12. Collective copyright and related rights management organizations shall operate professionally and have enough qualified staffers who are equipped with thorough understanding of law, required profession, and skills to perform their assigned functions and undertake their organization's tasks; they are required to collect and distribute copyright royalties in an open and transparent manner.

13. Following the Ministry of Culture, Sports and Tourism's instruction, ministers, heads of ministerial-level agencies, heads of government-attached agencies and chairmen of provincial and centrally-administered municipal people's committees shall send their annual reports reviewing the implementation of legal regulations on copyright and related rights to the Ministry of Culture, Sports and Tourism for integrating into a wrap-up report for submission to the Prime Minister.

14. The Minister of Culture, Sports and Tourism shall monitor, push up and inspect the implementation of this Instruction and report to the Prime Minister the outcomes and problems that may arise during the implementing process in addition to proposed measures to address those problems. The Minister shall review one year's implementation of this Instruction in the first quarter of 2010 and report it to the Prime Minister.

15. Ministers, heads of ministerial-level agencies, heads of government-attached agencies and chairmen of provincial and centrally-run municipal people's committees shall implement this Instruction.

To:

- The Party Central Committee's Secretariat;

- The Prime Minister and Deputy Prime Ministers;

- Ministries, ministerial-level agencies and government-attachees;
- The Office of the Central Steering Committee for Prevention and Control of Corruption;
- Provincial and centrally-run municipal people's committees;
- The Party Central Committee's office and Party Commission;
- The State Presidential Office;
- The Council of Nationalities and Committees of the National Front;
- The National Assembly Office;
- The Supreme People's Court;
- The Supreme People's Procuracy;
- The State Audit;
- The National Financial Supervision Committee;
- The Vietnam Bank for Social Policies;



- The Bank for Development of Vietnam;
- The Vietnam Fatherland Front's Central Committee;
- The Central Committees of mass organizations;
- The Government Office: Minister-Chairman, Vice Chairmen;
- Archive: Correspondence Bureau, the Department for social relations with foreign countries;

**On behalf of the Prime Minister**

**Deputy Prime Minister**

*(signed)*

**Nguyen Thien Nhan**