

**THE MINISTRY OF
INFORMATION AND
COMMUNICATIONS AND THE
MINISTRY OF CULTURE,
SPORTS AND TOURISM**

No. 07/2012/TTLT-BTTTT-
BVHTTDL

**THE SOCIALIST REPUBLIC OF VIETNAM
Independence– Freedom – Happiness**

Hanoi, June 19, 2012

JOINT CIRCULAR

**STIPULATING DUTY OF ENTERPRISES PROVIDING INTERMEDIARY SERVICE IN PROTECTION OF
COPYRIGHT AND RELATED RIGHTS IN THE INTERNET AND TELECOMMUNICATION NETWORKS
ENVIRONMENT**

Pursuant to the 2005 Intellectual Property Law; the 2009 Law amending and supplementing a number of articles of Intellectual Property Law;

Pursuant to the 2009 Telecommunication Law;

Pursuant to the 2006 Law on Information technology;

Pursuant to the Government's Decree No.105/2006/ND-CP, of September 22, 2006 detailing and guiding the implementation of a number of articles of The Law on Intellectual Property on protection of intellectual property rights and on state management of intellectual property; the Decree No.119/2010/ND-CP of December 30, 2010, amending and supplementing a number of articles the Decree No.105/2006/ND-CP;

Pursuant to the Government's Decree No.100/2006/ND-CP, of September 21, 2006 detailing and guiding the implementation of a number of articles of the Civil Code and the intellectual property law regarding the copyright and related rights; the Decree No.85/2011/ND-CP of September 20, 2011, amending and supplementing a number of articles of the Decree No.100/2006/ND;

Pursuant to the Government's Decree No.25/2011/ND-CP of April 06, 2011 detailing and guiding the implementation of a number of articles of the Telecommunications Law;

Pursuant to the Government's Decree No.187/2007/ND-CP of December 25, 2007, defining the functions, tasks, powers and organizational structure of the Ministry of Information and Communication; the Government's Decree No. 50/2011/ND-CP of June 24, 2011, amending the Government's Decree No. 187/2007/ND-CP of December 25, 2007, defining the functions, tasks, powers and organizational structure of the ministry of information and communications;

Pursuant to the Government's Decree No.185/2007/ND-CP of December 25, 2007, defining the functions, tasks, powers and organizational structure of the Ministry of Culture, Sports and Tourism;

Pursuant to the Directive No.36/2008/CT-TTg of December 31, 2008, of the Prime Minister on strengthening the management and implementation of copyright and related rights protection;

The Minister of Information and Communications and the Minister of Culture, Sports and Tourism promulgate Joint Circular stipulating duty of enterprises providing intermediary service in protection of copyright and related rights In the internet and telecommunication networks environment.

Chapter I

GENERAL PROVISIONS

Article 1. The scope of adjustment

This Circular stipulates duty of enterprises providing intermediary service in protection of copyright and related rights in the internet and telecommunication networks environment in Vietnam.

Article 2. Subjects of application

This Circular applies to enterprises providing intermediary service, copyright owners, related rights owners and organizations acting as collective representatives of copyright or related rights.

Article 3. Interpretation of terms

In this Circular, the below terms are construed as follows:

1. Intermediary service includes: Telecommunication service, Internet service, service of online social network, service of digital information search, and service of leasing digital information storage space including service of leasing website storage space.
2. Enterprises providing intermediary service include:
 - a) Enterprise providing internet service,
 - b) Telecommunication enterprise;
 - c) Enterprise providing service of leasing digital information storage space including service of leasing website storage space;
 - d) Enterprise providing service of online social network;
 - dd) Enterprise providing service of digital information search.
3. The content of digital information includes works, performances, phonograms and video recordings, broadcast programs that have been digitalized and processed, stored, exchanged, transmitted, supplied in the internet and telecommunication network environment.

Chapter II

RIGHT, DUTY OF ENTERPRISES PROVIDING INTERMEDIARY SERVICE

Article 4. Right of enterprises providing intermediary service

1. Setting up the system of inspection, supervision, process of information being put in, stored, transmitted in the internet and telecommunication network for prevention violation acts of copyright, related rights.
2. Unilaterally refusing of providing services which are contrary to provisions of laws on copyright and related rights.

Article 5. Duty of enterprises providing intermediary service

1. Storing content of digital information in their system of service provision, that only have transshipment, provisional, automatic, terminable character, be sufficient to meet technical requirement of digital information content transmit.
2. Obeying works of inspection, check of competent state management agencies under provisions on copyright and related rights.
3. Removing and deleting content of digital information which violates copyright and related rights, cutting, stopping and suspension of the Internet line, telecommunication line as receiving request in written of the inspector of the Ministry of Information and Communications or inspector of the Ministry of Culture, Sports and Tourism or other competent State agencies as prescribed by law.
4. Supplying information of customers hiring website, digital information storage space and customers using other intermediary service at the request of inspector of the Ministry of Information and Communications or inspector of the Ministry of Culture, Sports and Tourism or other competent State agencies.
5. Having responsibility directly for paying damages due to violation of copyright and related rights as prescribed by law on intellectual property and other related laws in the following cases:
 - a) Being source to start publishing, transmitting or supplying content of digital information by Internet and telecommunication network without permission of the subject having right;
 - b) Editing, truncating, copying content of digital information in any manner without permission of the subject having right;

c) Intentionally canceling or disabling technical measures performed by the subject having right for protection of copyright and related rights;

d) Operation as source of secondary distribution of content of digital information that obtain due to violation of copyright and related rights.

6. In addition to perform provisions in clauses 1, 2, 3, 4 and 5 of this article, enterprise providing service of online social network must perform the following duties:

a) Requesting person using service for commitment of performing duty of ensuring of using legally content of digital information uploaded and published in the internet and telecommunication network system;

b) Warning duty of civil compensation, ability of administration sanction, being prosecuted personal criminal liability for person using online social network having act that violating copyright and related rights.

Chapter III

ORGANIZATION OF IMPLEMENTATION

Article 6. Combination in handling violation

The inspector of the Ministry of Information and Communications combine with the inspector of the Ministry of Culture, Sports and Tourism to handle violations of copyright and related rights in the internet and telecommunication networks environment.

Article 7. Effect of the Circular

This Circular takes effect from August 06, 2012.

Article 8. Duty of performance organization

The head of office, director of the Science and technology department, the Chief Inspector of the Ministry of Information and Communications; director general of Copyright Office of Vietnam, the Chief Inspector of the Ministry of Culture, Sports and Tourism, heads of agencies, units under the Ministry of Information and Communications, the Ministry of Culture, Sports and Tourism; director of Information and Communications Services, Culture, Sports and Tourism Services of centrally-affiliated cities and provinces, and relevant organizations, individuals shall implement this Circular.

**FOR THE MINISTER OF CULTURE, SPORTS
AND TOURISM
DEPUTY MINISTER**

**FOR THE MINISTER OF INFORMATION
AND COMMUNICATIONS
DEPUTY MINISTER**

Ho Anh Tuan

Do Quy Doan