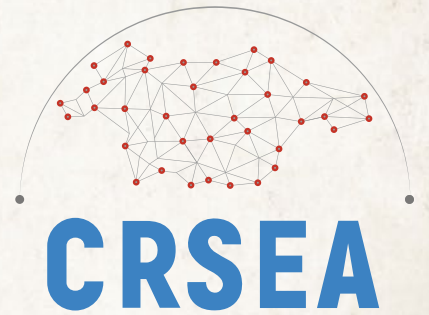


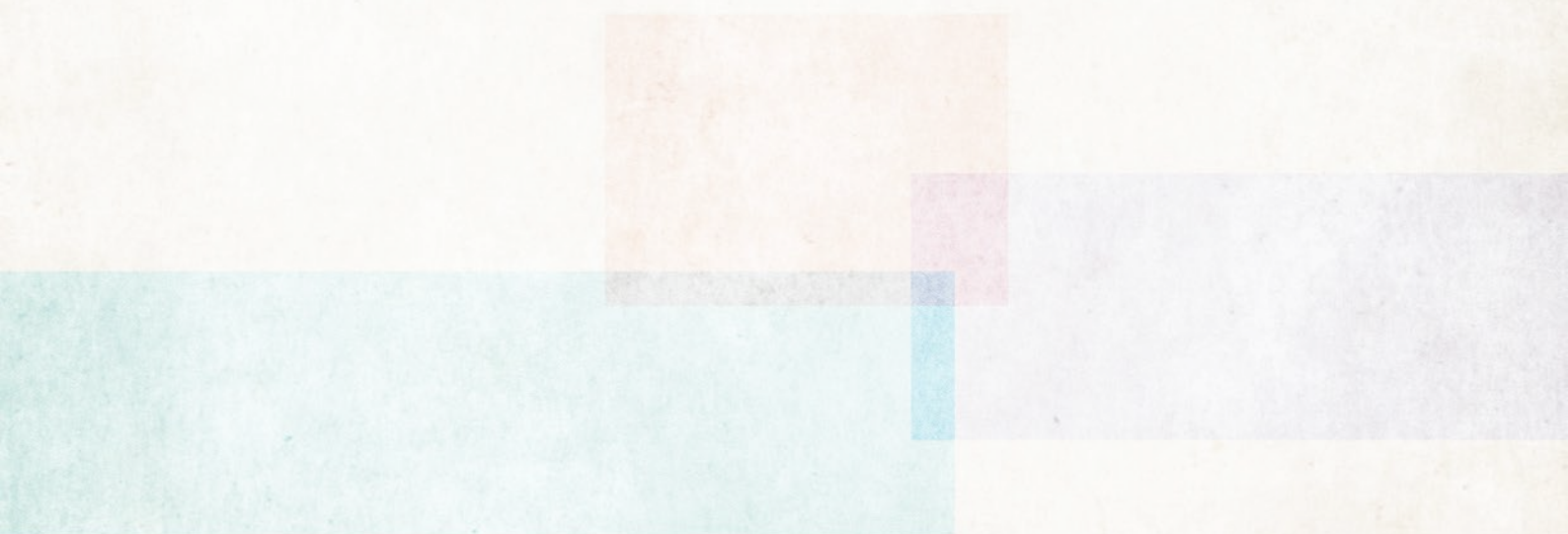
JULY

2020 --- REVIEW



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INTERNATIONAL NEWS



DAREN TANG OF SINGAPORE APPOINTED AS WIPO DIRECTOR GENERAL

The member states of the World Intellectual Property Organization (WIPO) on May 8, 2020, appointed by consensus Mr. Daren Tang as the Organization's next Director General, with Mr. Tang's six-year term beginning on October 1, 2020.

Mr. Tang's appointment by the [General Assembly](#), WIPO's highest governing body, followed his nomination by the WIPO [Coordination Committee](#) in March, 2020. Mr. Tang will succeed Mr. Francis Gurry, who has served as WIPO's Director General since October 1, 2008.



Mr. Tang sincerely thanked all Member States for their support and confidence. "[The COVID-19 pandemic](#) has caused untold misery and brought the world to a standstill, but has also reminded us of our common humanity. More than ever, the WIPO community needs to unite to support our inventors, innovators and creators, all of whom are playing critical roles in helping us overcome this grave pandemic, whether it is in finding a cure for the virus, allowing us to stay connected through technology, or lifting our spirits during this challenging period," said Mr. Tang.

Mr. Tang added: "I look forward to working with the Member States and staff of WIPO, as well as the many stakeholders in the global IP community, to build our future IP ecosystem – one that is balanced, inclusive and vibrant. I send my heartfelt wishes to one and all that they and their loved ones remain safe and healthy until we meet again."

«I extend my warmest congratulations to Mr. Tang and to the Government of Singapore on Mr. Tang's appointment," said Mr. Gurry. "The international intellectual property community will be in good hands with Mr. Tang at helm of the Organization. In the meantime, we are looking forward to working closely with Mr. Tang and his team on a smooth transition," he added.

Mr. Tang will be the fifth Director General of WIPO, following Mr. Gurry of Australia (2008-2020), Mr. Kamil Idris of Sudan (1997-2008), Mr. Arpad Bogsch of the United States (1973-1997) and Mr. Georg Bodenhausen of the Netherlands (1970-1973).

The process of selecting a Director General is governed by the [Convention Establishing the World Intellectual Property Organization](#) and the [“2019 Procedures for the Nomination and Appointment of Directors General of WIPO”](#). Mr. Tang’s confirmation as Director General-elect took place through an unprecedented [written procedure](#) after WIPO canceled or postponed in-person meetings due to the global COVID-19 pandemic.

https://www.wipo.int/pressroom/en/articles/2020/article_0011.html

WIPO’S CONVERSATION ON IP AND AI TO CONTINUE ONLINE

The World Intellectual Property Organization (WIPO) published a [revised issues paper on intellectual property policy and artificial intelligence \(AI\)](#) as part of its ongoing consultation with stakeholders on the intersection of [AI and IP policy](#) and announced the dates of the rescheduled WIPO Conversation on Intellectual Property (IP) and Artificial Intelligence, which will take place online.

The [Second Session of the WIPO Conversation on IP and AI](#) was planned to be held over three days from July 7 to 9, 2020 as a virtual meeting, in three daily sessions from 13:00 to 15:00 CET, to allow the broadest possible global audience to attend.

The [First WIPO Conversation on AI and IP](#) was convened by [WIPO Director General Francis Gurry](#) in September 2019 and brought together member states and other stakeholders to discuss the impact of AI on IP policy, with a view to collectively formulating relevant questions.



Following that meeting, Mr. Gurry announced that WIPO would launch an open process to develop a list of issues concerning the impact of AI on IP policy and invited feedback on an issues paper designed to help define the most-pressing questions likely to face IP policy makers as AI increases in importance. The result of that public consultation is contained in the revised issues paper, which takes into account the more than [250 submissions received from a wide global audience on the call for comments](#).

The many respondents to the draft Issues Paper, including member states, academic, scientific and private organizations as well as individuals, are proof of the relevance and timeliness of and the significant engagement in the discussion on IP and AI. We look forward to continuing the Conversation in a more structured discussion in July on the basis of the revised Issues Paper.

https://www.wipo.int/pressroom/en/articles/2020/article_0013.html



BJÖRN ULVAEUS ELECTED AS NEXT PRESIDENT OF CISAC

Ulvaeus, co-founder of ABBA and prolific writer of over 150 hit songs and shows, has created music that has inspired the world and spanned the globe. He is also a vocal campaigner for the rights of creators. He brings a deep understanding of the creative industries and the systems that help authors get fair payment for their works.

As CISAC President, a three-year term position, Björn will support the confederation's work to secure stronger rights, more royalties, better systems, and improved conditions for creators across five repertoires – music, audiovisual, visual arts, drama and literature.

CISAC – the International Confederation of Societies of Authors and Composers – represents more than 230 authors societies in over 120 countries. Through this community, CISAC supports the global network of collective management of rights. The CISAC community ensures the livelihood of more than four million creators and is responsible for collecting €9.6 billion of licensing income and royalties worldwide.

Commenting on the new role, Björn said: “I have made a great living as a songwriter and an artist, and I have been fortunate enough to have enjoyed a lot of success. Now, as President of CISAC, I am happy to have a different kind of opportunity, to try and help the next generation of creators in their working lives. CISAC has a unique international authority, and I believe passionately in its mission to secure better, fairer terms for creators. I am also interested in how the technologies we use can work better, earning creators fairer rewards for their work and more royalties. I am therefore very excited about the opportunities ahead and looking forward to our collaboration”.

CISAC Director General Gadi Oron said: “Björn Ulvaeus has moved us, inspired us and lit up our lives with his songs and creations. I am absolutely thrilled that he has decided to take on the role of CISAC President, to support us in our mission to serve creators internationally. Björn has an extraordinary track record - as a creator himself, as a champion for creators' rights, and as an expert in the systems which ensure creators are fairly paid. These qualities will be invaluable to CISAC's work and we look forward immensely to collaborating with him”.

Björn Ulvaeus was elected President by CISAC's General Assembly, which took place in a virtual meeting in May. He succeeds French electronic music pioneer Jean-Michel Jarre, who held the CISAC Presidency role for seven years.

<https://www.cisac.org/Newsroom/News-Releases/Bjoern-Ulvaeus-elected-as-the-next-President-of-CISAC>

EXPLAINING COPYRIGHT BUYOUTS: CISAC PUBLISHES NEW GUIDELINES FOR AUTHORS SOCIETIES WORLDWIDE

Earning royalties from their work is a sacred right of a creator. Whatever business model they follow, those who make a living from their creative work, who are the backbone of creative industries, depend on this right. It helps them earn a steady income flow over their lifetime.



Today that right is increasingly being challenged by the growing practice of imposed “copyright buyouts.” These are often forced on creators by the large users whose revenues they are driving – broadcasters, videogame producers, TV operators and digital platforms. Instead of a regular earning stream, creators are offered a one-off fee with little freedom to negotiate.

The issue is becoming much more apparent in the streaming world. In today’s “golden age” of subscription video on demand, platforms are using their global strength and bargaining power to try to change the way they work with creators.

Copyright buyouts are an important issue for creators and collective management organizations (CMOs) – and all the more important in the post-Covid-19 crisis. CMOs have a vital role to play advising their members and helping them understand their options.

Up until now there has been a lack of information and educational material about the varying national laws around buyouts and uncertainty about the legal environment globally.

CISAC has now responded by publishing new Guidelines to help collective management organizations assess and address the buyout phenomenon, educate their members and advise and lobby policy makers.

The Guidelines, based on insight from societies and external legal experts, explain what buyouts are, the laws applying in different markets, the implications for creators’ negotiating position and the options available to societies to address the issue.

The Guidelines are timely in the current post-Covid-19 crisis. The collapse of live and public performance revenues has increased creators’ reliance on SVOD services and broadcasters as users of music and audiovisual works. It is now all the more important that creators understand their options and are in a fair negotiating position and earning a fair share from the platforms.

<https://www.cisac.org/Newsroom/Articles/Explaining-copyright-buyouts-CISAC-publishes-new-guidelines-for-authors-societies-worldwide>

EAEU Countries Discussed Development of Intellectual Property

Armen Azizyan, Vice-President of the Eurasian Patent Office, took part in the tenth meeting of the Advisory Committee for Intellectual Property under the Eurasian Economic Commission (EEC) Board, held via videoconference.



The main mission of the Advisory Committee for Intellectual Property under the EEC Board (Advisory Committee) is preparation of proposals and recommendations for the EEC in the sphere of intellectual property rights protection and enforcement on the territory of the Eurasian Economic Union (EAEU). The Advisory Committee consists of Heads and Deputy Heads of Ministries and Departments, representatives of the IP business community and public associations of the EAEU Member States.

Members of the Advisory Committee, with the participation of representatives of the EEC Business Development Department, discussed the current status and certain areas of intellectual property development in the EAEU Member States.

EAPO Vice-President participated in the discussion of the initiative of the Russian Federation on the creation of the Unified Register of Pharmacologically Active Substances protected by patents. Mr. Azizyan also noted that taking into account the long-term experience of the EAPO in maintaining a regional register of Eurasian patents for inventions on the territory of eight Contracting States of the Eurasian Patent Convention, the creation of the Unified Register will require joint work to manage a large number of organizational and technical issues.

<https://www.eapo.org/ru/index.php?newspress=view&d=1040>



EUROPEAN UNION

Public Consultation on Digital Services Act Package

On 2 June 2020, the European Commission launched a public consultation on proposals for a Digital Services Act (DSA) package, which will be designed to modernize the current EU legal framework for digital services. This follows the Commission's Communication in February 2020 on "Shaping Europe's Digital Future," where it was announced that there would be new and revised rules to deepen the internal market for digital services (see IRIS 2020-4/14).



The Commission notes that the legal framework for digital services has "remained unchanged" since the adoption of e-Commerce Directive 2000/31 (see IRIS 1999-9/2), which harmonized the basic principles allowing the cross-border provision of services and which is a "foundational cornerstone for regulating digital services in the EU". However, the Commission argues that Europe needs a "modernized regulatory framework to reduce the ever-increasing regulatory fragmentation across Member States, to better ensure that everyone across Europe is protected online as they are offline and to offer to all European businesses a level playing field to innovate, grow and compete globally." As such, the DSA package would be comprised of two main pillars: (a) new rules framing the responsibilities of digital services to address the risks faced by their users and to protect their users' rights; increasing and harmonizing the responsibilities of online platforms and information service providers; and reinforcing the oversight over platforms' content policies in the European Union; and (b) ex ante rules to ensure that markets characterized by large platforms with significant network effects acting as gatekeepers remain fair and contestable for innovators, businesses and new market entrants.

The purpose of the public consultation is to support the Commission's work in analyzing and collecting evidence for scoping the specific issues that may require an EU-level intervention. As such, the 59-page consultation document is divided into a number of main themes, including (1) how to effectively keep users safer online, with the gathering of experiences and data on illegal activities online; (2) what responsibilities should be legally required from online platforms, and under what

conditions; (3) what issues derive from the gatekeeper power of digital platforms; (4) questions on the regulation of large online platform companies acting as gatekeepers; (5) questions relating to online advertising, including online political advertising; (6) the situation of self-employed individuals providing services through platforms; and (7) the governance of digital services and various aspects of enforcement. The consultation will be open until 8 September 2020, and both European and non-European individuals and organizations may contribute to the consultation. Following the consultation, the Commission is scheduled to present proposals for the DSA package in the fourth quarter (Q4) of 2020.

Finally, alongside the public consultation, the Commission also provided further details of possible legislative proposals under the DSA package, and published two important documents called Inception Impact Assessments, which also provide the “initial range of possible options to regulate large online platforms.” The first impact assessment clarifies the responsibilities of digital services, while the second concerns the ex ante regulatory instrument of very large online platforms acting as gatekeepers. Stakeholders have four weeks, until 30 June 2020, to provide feedback on the impact assessments.

<http://merlin.obs.coe.int/article/8935>



RUSSIA

State Duma Adopts Draft Law on Blocking of Infringing Content in Mobile Apps

On 27 May 2020, the State Duma adopted amendments on blocking mobile apps that violate copyright and related rights.

The bill was introduced in the State Duma in 2018 by a group of deputies. According to the bill, the Federal Service for Supervision of Communications, Information Technology and Mass Media (Roskomnadzor) shall determine the owner of the information resource where the infringing app is located within three working days after receiving a corresponding request from the rights holder.



Roskomnadzor shall then submit an electronic notification of copyright infringement to the owner of the information resource where the app is hosted, requiring them to take measures to restrict access to the information.

The owner of the information resource has one working day from the moment of receipt of the notification from Roskomnadzor to inform the owner of the software application and to notify him or her of the need to immediately restrict access to copyrighted content.

According to the draft law, the app owner must restrict access to copyrighted materials within one working day after receiving a notification from the owner of the information resource. If the user fails to do this, the owner of the information resource hosting the software application must restrict access to the application in question. If the owner of the information resource has not restricted access to the application,

information is sent to the telecom companies to take measures to restrict access to the application.

The law is expected to come into force on 1 October 2020.

<https://ria.ru/20200527/1572067064.html>

State Duma Adopted Amendments to Protect Children from Harmful Information in Movie Theaters

A number of amendments were adopted by the State Duma in the third (final) reading, regarding the protection of children from information that could be harmful to their health and development. In particular, providing cashiers in cinemas with the right to demand id documents when distributing tickets for films with an age limit.



Amendments were made to the laws “On the protection of children from information harmful to their health and development” and “On the functioning of libraries.”

Thus, according to the document, the organizers should not allow minors to attend events, in particular, to watch films that contain information prohibited for distribution to children. If the person distributing the entrance tickets, invitations to such an event has doubts that the ticket buyer has reached the age of majority, then they can require an id document allowing them to confirm the age.

The same system will apply to content containing information prohibited for distribution among children that is sold, rented and issued in libraries. It is also established that it is not allowed to sell such products using automatic machines.

Certain rules are also instated for cinemas in case of placing film trailers and other video announcements containing information prohibited for children while providing cinema services. As the government notes in the explanatory note to the bill, cinemas often show trailers before the screening without considering the age of the audience. The draft proposes to regulate the use of any content containing information prohibited for distribution to children – including trailers and other video announcements shown before screening.

Moreover, within a radius of 100 meters from kindergartens, schools, clinics and other social infrastructure for children, a ban on the distribution of 18+ information is established. Regional governments will be able to reduce the allowed distance to 50 meters. Such decisions can be made taking into account density of urban development and other factors in each specific case.

http://rapsinews.ru/legislation_news/20190418/297962451.html

Cabinet Commission Will Supervise Release of Television Programs

The Government Commission on coordination of ownership, management and control of the owner of an audiovisual service will be reorganized by the way of joining it to the Government Commission on the development of broadcasting. The latter was renamed the Government Commission for the Development of the Production and Distribution of Domestic Audiovisual Content.



The corresponding Cabinet Decision of May 28, 2020 No. 770 “The Government Commission for the Development of the Production and Distribution of Domestic Audiovisual Content” came into force on May 10.

The main tasks of the new structure are:

- determination of the main directions for the development of production and distribution of Russian audiovisual content to ensure its accessibility;
- creation of a single information space in the country;
- development of mechanisms to stimulate the production and distribution of such products;
- drafting of proposals on improving the legislation of the Russian Federation, concepts and programs to promote the development of production and distribution of domestic audio and video content.

The Vice-Premier, who will coordinate the work of federal authorities on public policy issues in the field of mass communications and the media, will be appointed as the Chairman of the Commission, as well as the Presidium Chairman.

<https://www.pnp.ru/social/kurirovat-vypusk-teleprogramm-budet-komissiya-kabmina.html>



KAZAKHSTAN

New Tax on Information Storage Devices Must Be Transparent

Kazakhstan introduces the new tax on information storage devices imported into the country? Including telephones, televisions, laptops, computers and other tangible media, in the amount of 0.7% of the cost of each imported piece of equipment on which audio or video materials can potentially be played. Entrepreneurs expressed interest in who they will pay and whether their tax money will reach the final beneficiaries.

These questions were initiated by the Kazakhstan Association of Trading Companies and Producers of Household, Computer Equipment and Complex Technical Systems KATEKS at a meeting in the NPP RK Atameken chaired by the acting Deputy Chairman of the Board Erbol Ustemirov, reports the press service of the NPP RK Atameken.

The meeting was also attended by representatives of the Ministry of Justice, the Anti-Corruption Agency, collective management organizations, MIT, SAMSUNG ELECTRONICS CENTRAL EURASIA LLP, Technodom Operator JSC, KaR-Tel LLP and others.

“According to the copyright law, importers will be required to pay 0.35% of the customs value and 0.35% of the selling price of a piece of equipment to the copyright organization. We analyzed the work of copyright societies. We realized that royalties do not always reach authors and copyright holders as authors’ societies sometimes put on waiting lists their own founders – copyright holders of musical works. We see

here a formal approach to the collection and payment of rewards. Business is ready to pay royalties, but it also has the right to know where and to whom this remuneration will be distributed,” said Shyngys Temir, Managing Director of the Department for the Entrepreneurs’ Rights Protection at NPP RK Atameken.

“We believe that this rule was adopted in violation of the Entrepreneurial Code, since according to Art. 65 art. 82 standards affecting the interests of entrepreneurs should include calculations of economic consequences and an analysis of regulatory impact. We believe that the 0.7% rate is high and it greatly affects the economic activity of enterprises. We propose to suspend the action of this resolution until amendments are made,” believes the chairman of KATEKS Sergey Arkhipkin.

Gulnara Kaken, Deputy Director of the of Intellectual Property Rights Department of the Ministry of Justice of the Republic of Kazakhstan, believes that the established procedure was followed when the decision was introduced.

“The law states that 40% is paid to authors, 30% to performers, 30% to producers of phonograms. Each company will distribute revenue on a quarterly basis. Article 26, which stipulates the payment of compensation fees from importers and manufacturers of equipment on which audio phonograms can be played, was introduced in 1996; therefore, no regulatory impact analysis was carried out. In world practice, the rate varies from 3% to 6%, in Russia the rate is 1%. We supported the initiative of the National Chamber to revise the list of equipment and other carriers used to play audiovisual works or sound recordings of works, reducing it to five positions, and we are currently waiting for approval from the National Chamber,” she added.

In addition, the representative of the Ministry of Justice recalled that copyright societies should spend no more than 30% of all fees on their administrative expenses. Unclaimed remuneration is to be on the account of organizations till the author’s demand without a limitation period. This means that CMOs collecting copyright fees are not entitled to dispose of them.

“In 2019, we proposed to collect royalties from Internet providers, as these organizations have statistical data on what content the user downloads. But the Ministry of Justice ignored our proposal,” said Sergey Arkhipkin.

“The tax on discs was introduced when people recorded music on tapes and discs, infringing copyrights. Now no one does that anymore. Everyone listens to music and watches movies online or on streaming platforms. This tax is outdated and does not fulfill any compensatory role. What is the purpose of our agreement with a copyright society if we do not interact with them in any way? We do not mind paying, but let it be the official tax that the state collects. What is the mechanism of choosing organizations that will collect money? We cannot explain to our foreign founders how the organization is chosen and where the money goes,” said Evgeny Amanbaev, representative of SAMSUNG ELECTRONICS.

Atameken NPP, together with the Anti-Corruption Agency, agreed to analyze the practice of collecting royalties within the framework of the Roadmap for the Implementation of the Cooperation Agreement between the Anti-Corruption Service and Atameken NPP, signed on February 27, 2020. “It is necessary to establish a transparent and understandable mechanism for the distribution of remuneration to copyright holders and CMOs,” said the acting Deputy Chairman of the Board of Atameken Yerbol Ustemirov.

Following the meeting, it was decided to consider the possibility of reducing the fee for reproducing audiovisual works and phonograms for personal purposes and without

generating income, and also to find a way to automate and digitalize the activities of copyright societies in order to ensure transparency. To solve these problems, a discussion of the amendments proposed by the authorized body with the public and the business community will be held.

<https://www.zakon.kz/5010225-novyy-nalog-na-bolvanki-dolzhen-byt.html>

Creative People Were Not Taught How to Make Money: Copyright in Kazakhstan

April 23 is World Book and Copyright Day, established by UNESCO in 1995. Radio Azattyk interviewed copyright expert Temirlan Tulegenov, one of the few specialists in this field of jurisprudence in the country, about the situation with copyright in Kazakhstan.



Azattyk: How is copyright developing in Kazakhstan? What are the current trends? Have people started to take the concept of copyright more seriously?

Temirlan Tulegenov: Copyright in Kazakhstan is developing one-sidedly. There is practically no copyright propaganda in the country. Trends, unfortunately, have been the same since 1996 – since the adoption of the copyright law. So far nothing has changed much. Authors absolutely do not know their rights, do not believe in the validity of copyright. This subject is not taught in creative specialties. There are still no textbooks specifically for creative specialties. And the state, [apparently], does not pursue the goal of creating conditions for the development of a civilized show business, show industry.

Azattyk: Which category of people in Kazakhstan most actively protects their copyrights?

Temirlan Tulegenov: Based on the answer to the first question, almost no one protects their copyrights. You need to understand that copyright is primarily a business law.

It helps to monetize your creativity. Absolutely no one works in this direction. Young people, believing in Internet technology, are trying to somehow monetize. But the problem is that when you do not know the basics of copyright, then, accordingly, earning from your work is chaotic, unsystematic.

In Kazakhstan, copyright is regulated by the Copyright and Related Rights Law, adopted in June 1996. It defines copyright as personal non-property and property rights of the author.

In January 2015, violation of copyright and related rights was transferred to the category of criminal offenses. The criminal code of Kazakhstan provides punishment from a fine to imprisonment of up to six years for such acts.

Azattyk: In your opinion, what is the most high-profile case of copyright infringement in Kazakhstan?

Temirlan Tulegenov: Judicial practice is meager in copyright. If in the field of industrial property there is some kind of order and a whole body of patent attorneys, then in the field of copyright there is an absolute mess. People do not know the law and, accordingly, do not know that thanks to this law they can protect their rights. So there is not much to talk about concerning big lawsuits. I personally deal with such cases without letting them go to the trial. As a rule, most of these violations are not intended. The vast majority of respondents violate copyrights unknowingly.

Azattyk: Are there enough intellectual property protection experts in Kazakhstan?

Temirlan Tulegenov: There are a lot of lawyers who work in copyright societies. Their interests are often limited to those of the organization. I am more engaged in legal support of creative projects – I help copyright holders monetize their creativity. It allows you to build mutually beneficial, equal relations between participants in the creative process. But, really, there is a big problem – our lawyers still do not specialize in intellectual property.

Azattyk: Does this sector have a future in Kazakhstan? Will copyright laws be tightened and more actively applied?

Temirlan Tulegenov: Undoubtedly. All global trends emerging with the development of the Internet will not pass Kazakhstan. The state must determine for itself whether Kazakhstan needs cultural industries or not. Thanks to the legacy of the Soviet Union, Kazakhstan still has a system of preparing high-class artists. And the appearance of such unique ones as Dimash Kudaibergen or the A-Studio band proves that. The problem is the lack of industry or even conditions for its emergence. It does not allow to create a system conveyor that would help Kazakhstan make a kind of cultural expansion to neighboring markets. This is how things go, unfortunately. At one time I was engaged in purely legal affairs. Then it became interesting for me to commercialize copyright and related rights. I am lecturing and promoting copyright. It's a pity that creative people were taught to create intellectual property of very high level and quality, but not how to make money from it.

Legislation is more or less standard, it complies with international requirements. The question is in the inability of creative people to use it in their interests. And this is the main problem for Kazakhstan today.

<https://rus.azattyq.org/a/kazakhstan-copyright-interview-with-a-lawyer-temirlan-tulegenov/30573244.html>

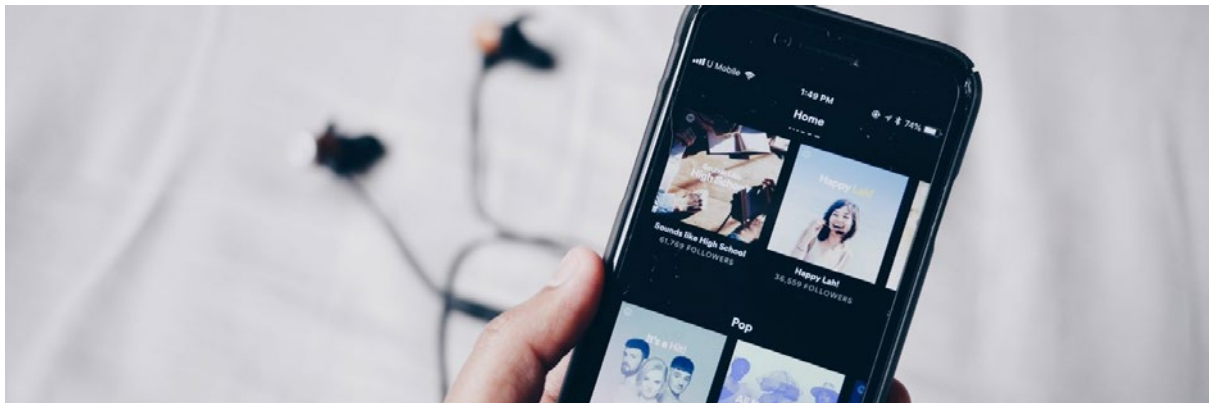


TURKEY

Turkey Could Be On the Verge of “An Explosion” in Music Streaming

Turkey may have one of the lowest per-capita spending on music globally, but recent years have seen recorded music income grow significantly while new digital players have helped streaming numbers to boom.

Turkey could be on the verge of “an explosion” in music streaming due to the new players coming to the market and streaming subscriber numbers rising sharply, believes the veteran of the country’s music industry. Metin Uzelli, who has been part of the Turkish music industry for three decades, says that he has “high expectations” for the future of the business.



“In 2020, I expect an explosion in both revenues and subscriber numbers,” he said. “I anticipate that we will see the results and benefits of new players, the dynamic environment brought by increased competition, the rapidly increasing number of subscribers and the recent retail price adjustment from this year onwards.”

Key to this was the launch of YouTube Music in Turkey in 2019, a significant move in a country where YouTube plays such a major role. YouTube had a 92% “penetration rate” among 16-64-year-old consumers in Turkey in the last half of 2018, according to Statista, making it the most popular social network (if we take a broad definition of “social network”) in the country ahead of Instagram (84%), WhatsApp (83%), Facebook (82%) and Twitter (58%).

Uzelli says that YouTube Music “has revitalized the market and filled Deezer’s deficiency on local catalogue.” Spotify and Apple Music also operate in Turkey, alongside services operated by local telcoms Turkcell Müzik (Fizy) and TürkTelekom Müzik (Muud).

Bülent Forta, General Coordinator and Board Member of the Turkish Recorded Music Association Mü-Yap, says that Turkish music industry has taken “important steps to open the old catalogues to the digital market.” “However, confusion about rights ownership and difficulties in accessing old records still show that this process has not been completed,” added Forta. “Thousands of records are still not transferred to digital, but this process continues.” As a result of this revitalization, Turkey is seeing a boom in subscriber numbers. In 2019, Mü-Yap estimated that 1 million people in Turkey were subscribing to a music streaming service; Uzelli says this number has risen sharply. “We are observing that the subscriber numbers are increasing at a much faster pace,” he said. “The number of paying subscribers rose sharply in the last months of the year, exceeding 2 million per month.”

What's more, Uzelli believes that streaming in Turkey is entering a more mature phase, with the high rate of unsubscribing that was caused by free bundled offers from telecoms dropping. "The data on this issue shows that, unlike in the past, the consumer cares about experience more than the price," he said. "This can be seen as a positive indicator for the development of the market."



Uzelli estimated that Turkish recorded music revenue increased by 20% in 2019 and will grow by even more in 2020, continuing the market's remarkable upward curve. In 2017, Turkish recorded music market grew by 17.8% and in 2018 it increased by 14.8%, according to local sources.

These numbers are impressive. But it is worth remembering that they come from a small base: total recorded music income in 2018 was just \$42.4 mil in a country of over 81 mil people.

Indeed, per capita recorded music revenue in Turkey is the lowest in Europe at just \$0.51 (Turkey, technically, is a transcontinental country located in Western Asia and Southeast Europe).

The result also comes against a backdrop of economic uncertainty: in 2018, Turkey went into recession and has been slowly recovering ever since.

Uzelli says that Turkey's economy remains weak. "This situation affects the music business mostly in regards to live performance, advertisement and sponsorship revenues," he says. "On the other hand, I can say that it does not affect – or I can even say that it supports – digital music consumption since it is a low-cost premium entertainment product."

One definite plus for the Turkish music industry is the strength of its domestic repertoire, which accounts for 85-90% of total consumption. At the same time, the Turkish diaspora gives strength to the country's recorded music market, with around 2.85 mil Turks living in Germany alone. "Streaming provided great convenience to reach the Turks living abroad," says Uzelli.

"However, I would not prefer to call this the 'export of Turkish music'. In order for Turkish music to reach non-Turkish consumers in other markets, projects that focus on this purpose from production to marketing are necessary." Already, though, there are signs that this is happening. Uzelli says that in 2019 there were more examples than ever of Turkish artists working with foreign musicians, especially in hip-hop.

Bülent Forta is also optimistic for 2020. “Instagram, Facebook and TikTok are licensed this year which means an increase in income. I also expect 100% growth in Spotify, YouTube and Fizy revenues. We have plenty of reasons to be hopeful for Turkish music industry and recorded music in the coming decade,” he said.

<https://musically.com/2020/02/13/country-profile-turkey-2020/>



CHINA

China Strives to Enhance the Protection of Copyright of Photographic Works

China is striving to enhance the protection of copyright of photographic works and promote the establishment of a long-term copyright protection mechanism for such works, the National Copyright Administration said.

Legal protection of copyright of news events-themed photographic works was highlighted in a circular issued by the administration.

It also regulated on stock photography providers’ misbehavior, including fake copyright and false authorization, as well as calling on relevant parties to cooperate, and jointly improve the copyright protection of photographic works.

Noting increasing online photo copyright infringement and piracy in recent years, the administration has investigated and dealt with a number of such cases, pledging more protection efforts from copyright authorities at all levels.

http://www.xinhuanet.com/english/2020-06/12/c_139132360.htm

Antipiracy Nationwide Campaign

Chinese authorities launched a nationwide campaign to crack down on online copyright infringement and piracy.

The crackdown, which will run from June to October 2020, was initiated by the National Copyright Administration in collaboration with several other ministries.

During the campaign, law enforcement departments will target copyright infringement of audio-visual works, including films, short videos, and those transmitted through streaming media, said a statement released by the authorities.

E-commerce platforms will also be under scrutiny in the special operation, said the statement, noting harsh measures will be taken to curb online sales of pirated books, audio-visual products and electronic publications, among others.

Regulators will also focus on fighting copyright infringement on social networking platforms, and in the field of online education and training.

The crackdown is the 16th national campaign targeting online copyright infringement since 2005.

http://www.xinhuanet.com/english/2020-06/17/c_139146733.htm

Upcoming Amendments to China's Copyright Law

Long-awaited amendments to China's Copyright Law introduce punitive damages for the first time, provide greater powers to the authorities when investigating infringement and capture the rapid developments in digital technology

First enacted in 1991 and amended in 2001 and then 2010, China's lawmakers began reviewing the third amendment (Draft) to the Copyright Law on April 26, 2020.

The most significant amendment in the Draft relates to compensation for damages (Article 53). The statutory damages in the Draft have been raised by ten times from CNY 500,000 to 5 million (USD 70,000 to 700,000).

In an environment where copyright infringement has become rampant, this increase addresses the nominal compensation that has been commonplace for many years.

The Draft introduces a new calculation system for compensation accounting for punitive damages, which is based on either the actual loss sustained by the rights owner, the infringer's illegal gains or a multiple of normal royalties. This helps copyright holders to receive fair compensation by significantly increasing the cost of infringement.

To help determine illegal gains of the infringer, the Draft adds that the administrative authorities shall have the power to launch inquiries over concerned parties, investigate illegal acts, conduct onsite inspections, consult and copy relevant materials as well as to seal and detain places and goods during investigations (Article 54).

The rapid development of digital network technology promotes the online dissemination of works and eases access to copyrighted works. The Draft keeps pace with the development and application of digital technology as well as new means for the reproduction of copyrighted works.

The Draft changes "cinematographic works and works created from an analogue process to cinematography" to "audio visual works" (Article 3.6, Article 10.1.7, Article 15, Article 21.3, Article 46 and Article 48.8) and refines the definition of "the right of broadcasting" from "the right to broadcast or communicate a work by wireless means" to "the right to broadcast or communicate a work through wired or wireless means" (Article 10.1.11).

These amendments help to solve an issue with works of new formats/modern technologies met in current practice and offers protection regardless of the technology employed. The Draft also expands provisions on technological protection measures and helps to avoid any ability to circumvent technological protection measures (Articles 47 to 50).

The Draft further extends the scope of copyright protection by limiting the work that is not copyrightable from “news on current affairs” to “pure factual information” (Article 5.2). This amendment suggests that commentary text, photographic works, audio visual works and other contents in news are copyrightable, if they meet the originality requirement.

The Draft extends the length of the protection period granted to “photographic works” from fifty years from the date of publication to the duration of the author’s life and for another fifty years after the author’s death (Article 21.3).

The “works of applied art” has not been listed as a separate type of copyrighted work, which indicates that the applied artworks could only claim copyright protection as artwork and aesthetic values of the works will be necessary for such protection.

To comply with relevant rules of international treaties, the Draft revises the provision in relation to authorship by changing the original description of “citizens” to “natural persons” and “other organizations” to “unincorporated organizations” (Articles 2, 9, 11, 16, 19, 21 and 22).

The long-awaited amendments will strengthen copyright protection, especially in the digital environment. At the same time, the Draft enhances supervision and punishment of copyright infringement, which will serve as a greater deterrent in the future. Raising statutory damages and including punitive damages will encourage parties to assert their intellectual property rights.

<https://www.lexology.com/library/detail.aspx?g=06106904-f091-4dea-9a80-91e457af7c26>

China’s Music Industry Should Change Its Tune on Copyright Protections

The industry’s intellectual property woes stem more from poor practices than malicious pirates, believes Chinese legal expert Zhao Zhigong:

According to a 2019 report from the International Federation of the Phonographic Industry (IFPI), China is now the seventh-biggest music market in the world, with total sales of more than 374.7 billion yuan (\$58 billion) the previous year.

Despite its growing market power, however, the country’s music industry lags in one respect: Almost three decades after China joined the Berne Convention for the Protection of Literary and Artistic Works, there is still a widespread lack of awareness of the importance of copyright protections, not just among the public, but also among leading industry figures.

Generally, we associate music piracy with consumers looking for free access to their favorite songs. Even within China’s music industry itself, however, understandings of and approaches to copyright and intellectual property vary.

There are historical and cultural reasons for this. During the Mao era, for example, China's music industry and music education system was expanded and standardized, but most composers and performers worked for the state. Their compositions were a public good, collectively owned by society.



Things started to change only after the country implemented market reforms beginning in the late 1970s. The proliferation of cassette tapes, which were more portable and cheaper to produce than vinyl records, led to a boom in consumption, including of pirated underground recordings of pop music from Europe, Hong Kong, and Taiwan. Sensing a business opportunity, cassette manufacturers on the Chinese mainland hired and paid musicians to cover hit songs from abroad, which were then sold in bulk across the country.

These were extremely popular. A number of Chinese-language stars got their start recording and performing covers, including Mao Ning and Yang Yuying, and the producers of these cassettes made a fortune. But whether from cassettes played in secret or covers played in public, the original creators and copyright holders almost never saw any royalties.

This untamed music industry forged a generation of pop music fans while accustoming Chinese listeners — if not the industry itself — to pay for music. Soon, Hong Kong and Taiwan record labels expanded onto the Chinese mainland, and in 1992 the country joined the Berne Convention. That same year, the Music Copyright Society of China was founded.

These developments gave international labels a window, however narrow, to defend their intellectual property in China. Little changed in the domestic industry, however.

In 1998, the U.S. passed the Digital Millennium Copyright Act. A year later, more than 10 record labels filed a lawsuit against music-sharing software Napster, marking a new chapter in the history of copyright protection.

Although China passed a similar law in 2001, the country's internet industry was still in its infancy, and neither online businesses nor record labels really considered digital music copyright a priority. This lack of oversight combined with the explosive growth of the internet caused chaos, as unlicensed music files circulated widely online, even on otherwise legitimate-seeming platforms.

This situation persisted for years, until 2015, when the National Copyright Administration abruptly ordered streaming platforms to remove unlicensed music. Noncompliant streaming companies rushed to purge their libraries of unauthorized

content — as many as 2.2 million recordings, by one estimate — and music fans suddenly found they no longer had access to many of their favorite songs.

The takedown of vast libraries of unauthorized songs reshuffled the streaming industry, as major streaming apps like NetEase Music, QQ Music, and Xiami Music raced to sign licensing deals with record labels. Today, streaming platforms are often willing to pay a high price for exclusive rights to content, seeing it as a way to lure consumers into their ecosystems. According to IFPI's 2018 Music Consumer Insight Report, 96% of listeners in China were listening to licensed music, significantly higher than the global average of 62%.

That's how I can be listening to a licensed stream of Boncana Maïga, a jazz musician from Mali, while writing this article in my Shanghai apartment. But we shouldn't adopt too rosy a view of the situation: The Chinese music industry itself still has a very limited understanding of copyright, and a lack of professional knowledge continues to hinder the implementation of music property rights.

To name just two examples, the music you hear when you're out shopping at a mall is likely unlicensed, and cover artists might be singing unauthorized songs when they perform. In 2011, musician Gao Xiaosong complained that he'd only received live performance royalties once in 18 years.

Matters have improved over the past nine years, but only haltingly. The most pressing bottleneck is a lack of legal talent. Chinese artists are accustomed to seeing themselves only as creators or employees, rather than as a brand or an entrepreneur. They also make only a small portion of their income from royalties, as opposed to live shows and product endorsements, so they rarely take a personal interest in business matters like copyright infringement.

Meanwhile, copyright experts are clustered in traditionally prominent businesses like nationally run theaters, studios, and TV and radio stations, as well as the international record labels that have dominated the country's music industry since the 1990s. Small and independent domestic labels generally don't view copyright protection as a major concern, and don't budget sufficient funds to lure experts or lawyers away from larger firms.

The legal outcomes of copyright cases between musicians are also far from satisfying. Compared with other intellectual property lawsuits, it's rare for music copyright-related cases to go to court. When they do, it quickly becomes clear that the punishments for violators are too weak to serve as an effective deterrent.

As a lawyer, I often sum up Chinese music copyright lawsuits in four simple phrases: "Copyright infringement is easy; prosecuting it, hard. The costs are high; compensation, low." Copyright owners usually spend a year or two on their lawsuit, only for the final settlement to be equal to — or sometimes less than — the cost of defending their claim. In 2018, outspoken folk musician Li Zhi sued a reality show for 3 million yuan for using one of his songs without permission. Although he won in court, the judge awarded him just 200,000 yuan.

On the bright side, China's growing commercial connectedness with the world has inevitably improved copyright awareness within its music industry. Tech titan Tencent announced in 2017 that they would swap stakes with Spotify, and two years later, the company led talks to buy 10% of Universal Music Group, the biggest music company in the world.

These moves have spurred Chinese companies to rethink the value of their intellectual property. In my experience, a growing number have started reaching out for legal help and services, and the long-standing industry practice of operating without fixed contracts may finally be coming to an end.

That's a good thing. Members of the generation that discovered pop music on cassettes in the 1980s are now some of the most influential figures at the country's record labels, theater companies, and talent agencies. If they can't effectively protect musicians' work, we'll find ourselves in a situation where talented people are forced to produce cheap, disposable songs. And if that happens, we'll all pay the price.

<https://www.sixthtone.com/news/1005290/chinas-music-industry-should-change-its-tune-on-copyright-protections>