

**Decree of the State Council of the People's Republic China**

No. 566

Interim Measures for Payment of Remuneration by Radio and Television Stations for Broadcasting Sound Recordings, adopted at the 62<sup>nd</sup> Executive Meeting of the State Council on May 6, 2009, are hereby promulgated and shall be effective as of January 1, 2010.

Premier, Wen Jiabao

November 10, 2009

## **Interim Measures for Payment of Remuneration by Radio and Television Stations for Broadcasting Sound Recordings**

**Article 1** These Measures are formulated in accordance with the provisions of Article 43 of the Copyright Law of the People's Republic of China (hereinafter referred to as the Copyright Law), for the purpose of ensuring that copyright owners exercise their right of broadcasting in accordance with law and facilitating broadcasting of sound recordings by radio and television stations.

**Article 2** For broadcasting published musical works, a radio or television station may, on matters regarding the method for paying remuneration and the amount to be paid to copyright owners, etc., conclude an agreement with the copyright collective administration organization which administers the relevant rights.

A radio or television station which, for broadcasting a published sound recording, has concluded a licensing contract with the copyright owner, shall pay remuneration by the method and at the rates agreed in the contract.

A radio or television station which broadcasts a published sound recording (hereinafter referred to as broadcasting a sound recording) without permission from the copyright owner, as provided for in Article 43 of the Copyright Law, shall pay remuneration to the copyright owner

in accordance with these Measures.

**Article 3** The term “broadcasting” in these Measures means broadcasting for the first time, deferred broadcasting or rebroadcasting by a radio or television station, whether by wireless means or by wire.

**Article 4** For broadcasting a sound recording, a radio or television station may conclude an agreement with the copyright collective administration organization which administers the relevant rights on payment of a fixed amount of remuneration to the copyright owner each year; in the absence of such an agreement, or if it fails to reach such an agreement, the radio or television station may consult with the said copyright collective administration organization for payment of remuneration to the copyright owner on the basis of one of the following methods:

(1) the amount of payment shall be calculated by deducting, as the cost, 15% of the advertising income of that station or of each channel or frequency of that station in the current year, and then multiplying the remainder by the rate of payment provided for in Article 5 or 6 of these Measures; or

(2) the amount of payment shall be calculated by multiplying that station’s total time for broadcasting sound recordings in the current year by the rate of payment for a unit time provided for in Article 7 of these Measures.

**Article 5** Where it is determined to calculate the amount of remuneration paid to a copyright owner by the method provided for in subparagraph (1) of Article 4 of these Measures, the amount of remuneration shall, for five years beginning from the date on which these Measures become effective, be paid at the following rates after consultation:

(1) where the ratio between the time for broadcasting sound recordings and the total time for broadcasting programs (hereinafter referred to as the ratio of broadcasting time) of a given station or of the channel or frequency of that station is less than 1%, the rate of payment shall be 0.01%;

(2) where the ratio of broadcasting time is not less than 1% but less than 3%, the rate of payment shall be 0.02%;

(3) where the ratio of broadcasting time is not less than 3% but less than 6%, the rate of payment shall be 0.09% to 0.15%; whenever the ratio rises by 1%, the rate of payment shall increase by 0.03% accordingly;

(4) where the ratio of broadcasting time is not less than 6% but not more than 10%, the rate of payment shall be 0.24% to 0.4%; whenever the ratio rises by 1%, the rate of payment shall increase by 0.04% accordingly;

(5) where the ratio of broadcasting time is more than 10% but less than 30%, the rate of payment shall be 0.5%;

(6) where the ratio of broadcasting time is not less than 30% but less than 50%, the rate of payment shall be 0.6%;

(7) where the ratio of broadcasting time is not less than 50% but less than 80%, the rate of payment shall be 0.7%; or

(8) where the ratio of broadcasting time is not less than 80%, the rate of payment shall be 0.8%.

**Article 6** Where it is determined to calculate the amount of remuneration paid to a copyright owner by the method provided for in subparagraph (1) of Article 4 of these Measures, the amount of remuneration shall, beginning from the date on which five years expire after these Measures become effective, be paid at the following rates after consultation:

(1) where the ratio of broadcasting time is less than 1%, the rate of payment shall be 0.02%;

(2) where the ratio of broadcasting time is not less than 1% but less than 3%, the rate of payment shall be 0.03%;

(3) where the ratio of broadcasting time is not less than 3% but less than 6%, the rate of payment shall be 0.12% to 0.2%; whenever the ratio rises by 1%, the rate of payment shall increase by 0.04% accordingly;

(4) where the ratio of broadcasting time is not less than 6% but not more than 10%, the rate of payment shall be 0.3% to 0.5%; whenever the ratio rises by 1%, the rate of payment shall increase by 0.05%

accordingly;

(5) where the ratio of broadcasting time is more than 10% but less than 30%, the rate of payment shall be 0.6%;

(6) where the ratio of broadcasting time is not less than 30% but less than 50%, the rate of payment shall be 0.7%;

(7) where the ratio of broadcasting time is not less than 50% but less than 80%, the rate of payment shall be 0.8%; or

(8) where the ratio of broadcasting time is not less than 80%, the rate of payment shall be 0.9%.

**Article 7** Where it is determined to calculate the amount of remuneration paid to a copyright owner by the method provided for in subparagraph (2) of Article 4 of these Measures, the amount of remuneration shall be paid at the following rates after consultation:

(1) the rate of unit-time payment by radio stations shall be 0.30 yuan per minute; or

(2) the rate of unit-time payment by television stations shall be 1.50 yuan per minute for five years beginning from the date on which these Measures become effective, and shall be 2 yuan per minute from the date on which five years expire after these Measures become effective.

**Article 8** Where a radio or television station, for broadcasting sound recordings, fails either to reach an agreement with the copyright collective administration organization which administers the relevant

rights, on payment of a fixed amount of remuneration, or to decide on, through consultation, the remuneration payable, as provided for in Article 4 of these Measures, it shall determine the amount of remuneration to be paid to the said copyright collective administration organization by the method provided for in subparagraph (1) of Article 4 and at the rates provided for in Article 5 or 6 of these Measures.

**Article 9** Where a radio or television station rebroadcasts sound recordings broadcasted by another radio or television station, the time for rebroadcasting sound recordings shall be calculated at 10% of the actual time for such rebroadcasting.

**Article 10** The amount of remuneration to be paid by the method provided for in these Measures to the copyright owners by radio or television stations in the central regions shall, for five years beginning from the date on which these Measures become effective, be 50% of the amount calculated in accordance with the provisions of these Measures.

The amount of remuneration to be paid by the method provided for in these Measures to the copyright owners by radio or television stations in the west regions and by all the specialized channels or frequencies throughout the country which broadcast programs specially for children, ethnic minorities or rural areas shall, for five years beginning from the date on which these Measures become effective, be 10% of the amount calculated in accordance with the provisions of these Measures; and it

shall, beginning from the date on which five years expire after these Measures become effective, be 50% of the amount calculated in accordance with the provisions of these Measures.

**Article 11** The finance department of a people's government at or above the county level shall make the expenditure on paying remuneration to copyright owners for broadcasting sound recordings by a radio or television station established by the people's government at the corresponding level one of the factors in verifying its revenue and expenditure, which the said department shall, in light of the local financial conditions, take into overall consideration and for which it shall make comprehensive arrangements.

**Article 12** With respect to payment of remuneration to copyright owners, a radio or television station shall take a calendar year as the period of account.

A radio or television station shall, in the first quarter of each year, deliver the remuneration payable in the previous year to the copyright collective administration organization, which shall transfer the same to copyright owners.

When paying remuneration to copyright owners through the copyright collective administration organization, a radio or television station shall provide it with such information as the titles of the works which it broadcasts, the names or titles of the copyright owners and the

broadcasting time, unless the parties have agreed otherwise.

**Article 13** Where a radio or television station, for broadcasting sound recordings, fails to pay remuneration to copyright owners who are not members of the copyright collective administration organization which administers the relevant rights, it shall, in accordance with the provisions of Article 12 of these Measures, deliver the remuneration payable to the said copyright collective administration organization, which shall transfer the same to the copyright owners.

**Article 14** Apart from the provisions of these Measures, the relevant provisions of the Regulations on Copyright Collective Administration shall apply where the copyright collective administration organization transfers remuneration to copyright owners.

**Article 15** After delivering the remuneration payable to copyright owners to the copyright collective administration organization in accordance with the provisions of these Measures, a radio or television station shall bear no liability for any dispute between the copyright collective administration organization and copyright owners.

**Article 16** Where a dispute arises over the remuneration paid in accordance with the provisions of these Measures between a radio or television station and the copyright owners or the copyright collective administration organization, either party may bring civil proceedings in a people's court in accordance with law or apply to an arbitration body for

arbitration under a written arbitration agreement reached between the parties.

**Article 17** These Measures shall be effective as of January 1, 2010.