

## Notice of the National Copyright Administration of China on Regulating the Copyright Order of Photographic Works

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This Notice on photographic works-related issues is issued as follows, in accordance with the *Copyright Law of the People's Republic of China, Implementation Regulations of the Copyright Law of the People's Republic of China, and Regulations on Protection of the Right of Communication through Information Network*, for the purpose of protecting the legitimate rights and interests of copyright owners in their photographic works, regulate the copyright order of photographic works and encourage the wide and orderly dissemination of photographic works.

**I.** Photographic works, as one type of works protected by the *Copyright Law*, shall be original and have the characteristics stipulated in Article 4 (10) of the *Implementation Regulations of the Copyright Law*.

News events-themed photographic works fall outside the news on current affairs provided by the *Copyright Law* and are protected by copyright laws and regulations.

**II.** News agencies, Internet content providers, Internet public accounts, image gallery operators, non-media organizations and individuals who use photographic works of others shall strictly abide by copyright laws and regulations, obtain permission from and pay remuneration to the copyright owners, unless otherwise stipulated by laws and regulations or otherwise agreed by the parties concerned.

Without the permission from the authors, the users shall not substantially modify the compositions, colors and the like of the photographic works, or distort or mutilate the titles and original intentions of the photographic works.

For the photographic works whose copyright protection term expires, the users shall not infringe on the rights of authorship, revision, and integrity enjoyed by the authors of such works.

**III.** The copyright owners of photographic works may authorize the copyright collective management organization of photographic works to manage the rights that are difficult to exercise effectively. Upon authorization, the collective copyright management organization may exercise the rights in its own name and act as a party in related legal or arbitration proceedings.

Without approval, any organization or individual shall not engage in copyright collective management of photographic works.

**IV.** The image gallery operators shall put in place a sound mechanism for copyright management, standardize their copyright businesses, conclude contracts with the copyright owners of photographic works, and exercise relevant rights within the scope agreed by both parties.



The photographic works provided by image gallery operators to the user shall be clear in ownership, legally authorized, and bear such necessary information as the author, as well as the authorization mode, term and scope.

The copyright licensing fees charged by the image gallery operators shall be reasonable and the price explicitly indicated.

**V.**The image gallery operators shall authorize and seek rights protection in good faith. They shall not fabricate copyrights for non-copyrighted photographic works, provide unauthorized photographic works and claim rights, or improperly seek copyright protection for speculation.

**VI.**The image gallery operators, when collecting, categorizing, compiling and providing to the users the photographic works whose copyright protection terms expires or whose copyright owners waives their economic rights, shall indicate the necessary information, such as the authors and the scope of the rights to use, and shall not infringe on other rights enjoyed by the authors or charge in the name of copyright licensing fees.

**VII.**The Internet service providers for disseminating photographic works shall, in full compliance with relevant provisions of the Regulations on Protection of the *Right of Communication through Information Network*, provide transparent and convenient channels for seeking rights protection, promptly handle complaints of infringement disputes, and effectively fulfill the legal obligation of notice and take-down.

**VIII.**Except where the author declares in advance that the use of his or her photographic work is not permitted, a single published photographic work may, without permission from the copyright owner, be compiled in textbooks for the purpose of compiling and publishing textbooks for the nine-year compulsory education and for national education planning, provided that remuneration is paid in accordance with the *Regulations on Remuneration Payment Methods for Works Used in Textbooks with Statutory License*, the name of the author and the title of the work are mentioned, and the other legitimate rights enjoyed by the copyright owner are not prejudiced.

**IX.**The copyright owners and users of photographic works, image gallery operators, and photographic industry organizations shall jointly explore a reasonable and convenient authorization system to further improve the authorization and transaction mechanism and encourage the legal and orderly dissemination of photographic works.

Photographic industry organizations shall actively promote copyright self-discipline, fair trade, dispute mediation, and law-based rights protection. The organizations shall also vigorously make tentative efforts in constructing a meager-profit image gallery for micro, small, and medium-sized and other users



and a public interest-oriented one in the sphere of poverty alleviation, science and education among others.

**X.**When filing an administrative complaint with a copyright administrative department, the copyright owners of the photographic works shall submit the application, the certificate of rights, the infringed works and other evidence. The original, legal publications, copyright registration certificates, contracts for acquiring the rights, etc., of the photographic works can be used as proofs of acquiring copyrights. The rights statement or the watermark on the photographic works cannot be used alone as the proof of copyright ownership.

Competent copyright administrative departments at all levels shall strengthen routine supervision, impose stricter punishment, and take resolute actions to crack down on infringement and piracy of photographic works in accordance with the law, and investigate and punish the acts of copyright fabrication and false authorization of photographic works.

This notice shall take effect as of the date of publication.

