

中国数字环境下文字作品的版权保护

Copyright Protection of Written Works in Digital Environment in China

中国文字著作权协会

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2023年目标：版权强国

Target in 2023: Strength China's copyright competitiveness

□ 中国国家主席习近平重要论述：

Chinese President Xi Jinping's important remarks:

——创新是引领发展的第一动力，保护知识产权就是保护创新。

——Innovation is the primary driver of development, and protecting IP means protecting innovation.

——全面依法治国最广泛、最深厚的基础是人民，必须把体现人民利益、反映人民愿望、维护人民权益、增进人民福祉落实到全面依法治国各领域全过程，保障和促进社会公平正义，努力让人民群众在每一项法律制度、每一个执法决定、每一个司法案件中都感受到公平正义

——The people constitute the most extensive and profound cornerstone for comprehensively advancing law-based governance. The requirements of representing the people's interests, reflecting their wishes, protecting their rights, and furthering their wellbeing must be integrated into the entire process and every facet of comprehensively advancing law-based governance. Social justice should be safeguarded and promoted to enable fairness and justice in each and every legal system, law enforcement decision, and judicial case.



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- 《知识产权强国建设规划纲要（2021—2035年）》：2035年，中国要基本建成法治国家、法治政府、法治社会，建设成为中国特色、世界水平的知识产权强国。
 - 国家版权局《版权工作“十四五”规划》：版权是文化的基础性资源、创新的重要体现，国民经济的支柱产业，国家综合实力的重要指标，已经成为国家发展的战略性资源、国际竞争力的核心要素。
 - *The Outline for Building an Intellectual Property Powerhouse (2021-2035):* By 2035, China will become a basically law-based country, government, and society, and a world-class IPR power with Chinese characteristics.
 - *The Copyright Plan for the “14th Five-Year Plan” Period* issued by the National Copyright Administration: Copyrights represent a fundamental cultural resource, an important manifestation of innovation, a pillar industry of the national economy, and an essential indicator of the country's comprehensive strength. They have evolved into a strategic resource for national development and a core component of international competitiveness.



2025年，中国版权产业行业增加值要提高到7.5%，核心版权产业增加值——4.75%。

2021年——7.41%。广州、成都、上海更高，超过9%。
CMO属于核心版权产业。

By 2025, the value added of China's copyright industry sector should be increased to 7.5% of GDP, and that of the core copyright industry should be up to 4.75% of GDP.

In 2021, the value added of China's copyright industry sector reached 7.41% of GDP. This figure was even higher in Guangzhou, Chengdu and Shanghai, representing over 9% of local GDP.

CMOs are part of the core copyright industry.



2022年中国CMO版权费收入

China's CMO royalty revenue in 2022

- 1、中国音乐著作权协会：4.17亿元（5800万美元），1992-2022年，30年，总收入34.5亿元（4.86亿美元）。
- 2、中国音像著作权集体管理协会：4.47亿元（6300万美元）
- 3、中国文字著作权协会：2045万元（288万美元），2008-2022年，成立15年，总收入1.4亿元（1900万美元），分配1亿元（1400万美元左右。每个月都在分配，有明细单。

1. The Music Copyright Society of China (MCSC): RMB 417 million (USD 58 million). 1992-2022, 30 years, total revenue RMB 3.45 billion (USD 486 million).
2. China Audio-Video Copyright Association (CAVCA) : RMB 447 million (USD 63 million)
3. China Written Works Copyright Society (CWWCS): RMB 20.45 million (USD 2.88 million). 2008-2022. 15 years after its establishment, total revenue of RMB 140 million (USD 19 million), with RMB 100 million (USD 14 million) remuneration distributed. Distribution is being made every month, with an itemized list recorded.



CMO的根本属性与功能、作用

CMOs' fundamental attributes, functions, and roles

□ CMO的必要性 CMOs' necessity

1、CMO: 是经济社会发展到一定程度的产物，是社会需求。

CMOs: A product of economic and societal advancement, representing a response to social demand.

2、CMO:是著作权法律体系的重要组成部分，是衡量一个国家著作权管理、保护水平的重要标志，是法律制度保障。

CMOs: A vital component of the copyright legal system, serving as a significant benchmark for assessing the effectiveness of a country's copyright management and protection. They also act as a safeguard within the legal framework.

3、CMO: 是权利人和产业界之间的重要桥梁。

CMOs: A crucial bridge connecting right holders and industry.

□ CMO的本质功能: CMOs' fundamental functions:

(1) 以权利人利益为中心，让权利人利益最大化

To focus on and maximize the interests of right holders

(2) 解决使用者的海量作品授权，促进产业发展

To ensure authorization of a large number of works for users and promote industry development



□ **CMO的社会功能：CMOs' social functions:**

- (1) 具有一定公益性质，平衡权利人与使用者、公众利益的有效制度；
An effective, non-profit system that strikes a balance among the interests of rights holders, users, and the public;
- (2) 降低版权交易和维权的社會成本，避免权利人与使用针锋相对，化解社会矛盾，加强版权社会治理的有效制度；
An effective system that reduces the social costs of copyright transactions and rights defense, avoids disputes between right holders and users, resolves social conflicts, and strengthens the social governance of copyright;
- (3) 提升公众版权意识、维护社会公平正义、推动著作权法制建设和国家法治建设的有效制度。
An effective system that enhances public awareness of copyright, safeguards social fairness and justice, and contributes to the development of the copyright legal system and the national rule of law.



(4) 增强公民对国家和法律的信任，可以让版权释放应有的能量和价值，让著作权法发挥对经济社会的重要支撑和保障作用。

Enhancing citizens' trust in the state and the legal system, enabling copyright to unleash its inherent energy and value, and empowering the copyright law to play a crucial supporting and safeguarding role for the economy and society.

(5) 对经济社会发展的重要支撑作用，支撑多个产业的健康规范发展和参与国际竞争。

Playing a pivotal supporting role in economic and social development, fostering the healthy and well-regulated growth of various industries, and supporting them in actively engaging in international competition.

音著协、音集协——音乐产业，网络音乐

Music Copyright Society of China and the China Audio-Video Copyright Association—the music industry and the Internet Music

文著协——出版产业、教育出版，在线教育，有声书、知识资源平台（知识服务）

CWWCS—the publishing industry, educational publishing, online education, audiobooks, knowledge resource platforms (knowledge services)

5个CMO——数字经济，构建健康的版权生态环境。

5 CMOs - digital economy, and building a healthy copyright ecosystem.



(6) 参与推动著作权法制建设

Participating in and promoting the development of the copyright legal system

——文著协连续多年配合全国人大代表、全国政协委员提出修改著作权法、加强网络版权保护、完善CMO的提案议案，受到社会关注和政府有关部门的重视。

——The CWWCS, for many years, has cooperated with deputies to the National People's Congress and members of the National Committee of the Chinese People's Political Consultative Conference (CPPCC) to put forward proposals and motions on amending the *Copyright Law*, strengthening the protection of online copyright, and improving CMOs, which have attracted the attention of the society and relevant government departments.

——在文著协推动下，国家版权局和国家发展改革委制定了教科书法定许可付酬办法、使用文字作品付酬办法两个部门规章。

——Under the promotion of the CWWCS, the National Copyright Administration (NCA) and the National Development and Reform Commission (NDRC) formulated two departmental regulations, namely the *Measures for the Payment of Remuneration for Use of Works by Textbooks under Statutory Licensing* and the *Measures for the Payment of Remuneration for Use of Written Works*.

——CMO领导和会员多次参加全国人大常委会著作权法执法检查、全国政协著作权法修改座谈会

——CMO leaders and members have participated in multiple enforcement inspections of the *Copyright Law* organized by the Standing Committee of the National People's Congress and the symposiums on the revision of the *Copyright Law* organized by the CPPCC.



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- CMO多次参加全国人大常委会组成部门和专门机构的修法座谈会并发言。有多个建议被写入新著作权法。如写入“权利使用费”，将“权利许可使用费”修改为“权利使用费”，法定赔偿赔偿提高到500万元、2-5倍惩罚性赔偿，延长摄影作品保护期等。
 - **CMOs have participated in and delivered speeches at various symposiums on law revision organized by the departments and specialized agencies of the Standing Committee of the National People's Congress.** A number of their suggestions have been incorporated into the new *Copyright Law*. For example, the suggestions to add "royalty", to revise the "license royalty" into "royalty", to increase the statutory compensation to RMB 5 million, to impose 2-5 times punitive compensations, and to extend the protection period for photographic works.
 - CMO集体发放许可与集体维权逐渐得到权利人、产业界、社会认可：尤其是在数字音乐、背景音乐、卡拉OK、汇编作品、戏剧表演、电子书、有声书等方面，CMO发挥重要作用。
 - **CMOs' collective licensing and collective rights protection have gradually been recognized by right holders, industry and society:** CMOs play an important role especially in areas such as digital music, background music, karaoke, compilation works, theatrical performances, e-books, and audiobooks.



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- 面向会员和社会公众，组织开展著作权法宣传、培训、研讨，提高公众版权意识，开展版权产业市场调研，CMO逐渐受到全社会认可。
 - **Promoting the copyright law among its members and the public**, organizing training and seminars to raise the public's awareness of copyright, and conducting market research on the copyright industry. CMOs have been gradually recognized by the whole society.
 - 文著协履行法定职能，落实法定许可制度，让权利人的权利得到实现。教科书法定许可付酬制度得到有效落实
 - **The CWWCS performs its statutory functions and implements the statutory licensing system**, so that the rights of right holders can be ensured and the statutory license payment system for textbooks is effectively implemented.
 - **CMO成为维护社会公平正义的重要力量**。通过诉讼、调解等形式，维护权利人权益，推动产业发展，收费逐年增加，**CWWCS**向Google、App store、Baidu.com 维权，起诉中国CNKI胜诉，在海内外产生较大反响。
 - **CMOs have become an important force in upholding social justice**. In the forms of litigation, mediation, and so on, they safeguard the rights and interests of right holders, promote the development of the industry, and collect more fees year by year. The **CWWCS** once defended its rights against Google, App store and Baidu.com, and won the lawsuit against China CNKI, which has reverberated strongly at home and abroad.



对知识资源平台行业的规范发展引导

Guidance on the well-regulated development of the knowledge resource platform industry

- 2023.2, 在NCAC指导下, 文著协联合三十多家机构发起成立“知识资源平台版权合规建设和健康规范发展共同体”, 发布倡议书, 经过调研和论证, 颁布知识资源平台使用文字作品付酬办法, 指导平台与期刊、各类作者建立公平合理规范的授权关系, 维护广大作者的合法权益, 推动学术文献行业健康规范发展, 推动期刊数字化与国际合作。
- In Feb 2023, under the guidance of the NCAC, the CWWCS, together with more than 30 organizations, initiated the establishment of the "Community for the Development of Copyright Compliance and Healthy and Well-regulated Development of Knowledge Resource Platforms". They issued a proposal, and, after research and argumentation, promulgated the *Measure for the Payment of Remuneration for Use of Written Works on Knowledge Resource Platforms*, to guide the platforms to establish fair, reasonable and standardized licensing relationships with periodicals and various types of authors, safeguard authors' legitimate rights and interests, promote the healthy and well-regulated development of the academic literature industry, and advance the digitization and international cooperation of periodicals.



Community for the Development of Copyright Compliance and Healthy and Well-regulated
Development of Knowledge Resource Platforms

知识资源平台版权合规建设 与健康规范发展共同体



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- 制定《知识资源平台使用文字作品付酬办法》，2023.11.13文著协理事会审议通过，媒体关注，很多期刊、作者支持。
 - *The Measure for the Payment of Remuneration for Use of Written Works on Knowledge Resource Platforms* was formulated, considered and adopted by the Council of the CWWCS on November 13, 2023, which has attracted the attention of the media and the support of many periodicals and authors.
 - 在“知识资源平台共同体”框架下，文著协将陆续与知识资源平台签订合作协议，文著协设立版权费资金池，各平台向文著协提存。文著协可以授权会员作品，协助平台处理版权纠纷。该办法对解决平台与作者、平台与期刊的诉讼版权纠纷、调解版权纠纷具有现实指导意义。
 - Under the framework of the "Community of Knowledge Resource Platforms", the CWWCS will sign cooperation agreements with knowledge resource platforms, and will set up a pool of royalties, which will be deposited by platforms. The CWWCS can authorize members' works and assist platforms in handling copyright disputes. This approach is of practical significance in resolving and mediating copyright litigation disputes between platforms and authors, platforms and periodicals.



□ “剑网行动”重点治理领域

□ **Focus Areas of China's Sword Net campaign**

对知识资源平台、有声书平台、电商平台侵权盗版治理纳入“剑网行动”。对知识资源平台的专项治理成为2022年中国版权十件大事。

China's Sword Net campaign cracks down on infringements and piracy on knowledge resource, audiobook and e-commerce platforms. The special rectification of knowledge resource platforms was one of the ten major copyright events in China in 2022.

- 调研制定期刊与作者授权示范文本、学位论文版权使用授权书格式文本，在行业推广，规范授权链条。
- Investigating and formulating model authorization texts for periodicals and authors and the format of authorization letters for the use of copyright in dissertations, and promoting them in the industry to standardize the authorization chain.
- 加强对共同体成员单位的版权培训，组织研讨交流展览，培养其守法意识。
- Strengthening copyright training for Community members and organizing seminars and exhibitions to cultivate their law-abiding awareness.



文著协的实践

CWWCS's Practice

文著协15年收取版权费1.4亿元，每年2000万-2500万元，相当于年纯收入1.5-2亿元规模的中型出版传媒集团，授权图书超万种，惠及作者万人次，合作伙伴200多家，逐年增长。

The CWWCS has collected royalties of RMB 140 million over the past 15 years, which means RMB 20-25 million a year. It is equivalent to a medium-sized publishing media group with an annual net revenue of RMB 150-200 million. It has authorized more than 10,000 kinds of books, benefiting tens of thousands of authors, more than 200 partners, and counting.

媒体报道：《文著协15年：收取稿费1.4亿元，授权图书超万种，化解纠纷数百件》

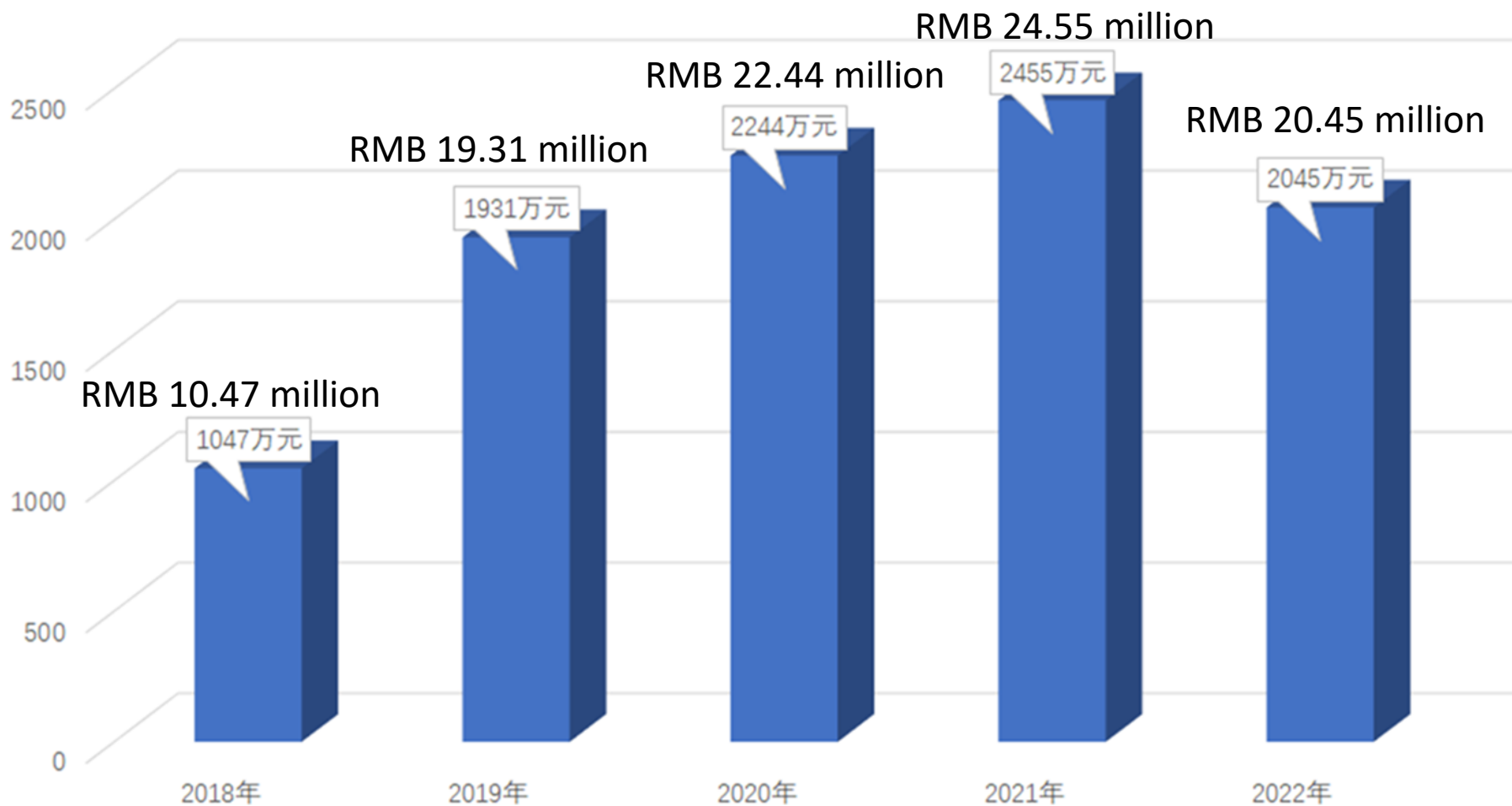
《文著协：文化强国和版权强国建设的重要力量》

Media coverage: *15 Years Since Its Inception: The CWWCS Has Collected RMB 140 Million in Royalties, Authorized More Than 10,000 Kinds of Books, and Resolved Hundreds of Disputes*

The CWWCS: An Important Force in Building China into a Cultural and Copyright Powerhouse



Copyright royalties collected by the CWWCS in the last five years
文著协近五年著作权使用费收取情况



■ 文著协近五年著作权使用费收取情况



□ 中国文字著作权协会：

□ The CWWCS:

2018年——1047万元；

2019年——1931万元，同比增长84%。

2020年——2244万元，同比增长16%。

2021年——2455万元，同比增长9.4%。

2022年——2045万元，有下降

2023年——有望达到2300-2500万元。

2018: RMB \$10.47 million;

2019: RMB 19.31 million, up 84 percent year-on-year.

2020: RMB 22.44 million, up 16 percent year-on-year.

2021: RMB 24.55 million, up 9.4 percent year-on-year.

2022: RMB 20.45 million, a small decline

2023: Estimated to RMB 23-25 million.



法定职能：负责全国报刊转载和教科书法定许可版权费收缴和转付的法定机构

Statutory Functions: A statutory body responsible for the collection and transfer of royalties for reproduction by media outlets across the country and statutory licenses for textbooks

文著协管理会员难以有效行使和有效控制的信息网络传播权、复制权、汇编权、法定许可获酬权、表演权、放映权和广播权等。

The CWWCS manages the rights of information network dissemination, reproduction, compilation, statutory license remuneration, performance, projection and broadcasting, etc., which are difficult for its members to effectively exercise and control.

(1) **信息网络传播权：**电子书、有声书、网络转载，授权较多儿童图书制作有声读物。

The right of information network dissemination: e-books, audiobooks, online reproduction, and authorization to produce audiobooks for a large number of children's books.

(2) **汇编权：**（这是文著协的创新），每年

The right of compilation: (an innovation of the CWWCS) resolving



解决500多种汇编类图书的授权，收取版权费250多万美元。开展海外中文教材教辅授权，覆盖英国、韩国、日本、新加坡、俄罗斯，中国香港和澳门

the authorization of more than 500 compilation books, leading to the collection of royalties of more than USD 2.5 million. Conducting overseas authorization of Chinese textbooks and reference books, covering the UK, South Korea, Japan, Singapore, Russia, China's Hong Kong and Macao.

(3) **戏剧表演权**：（文著协的创新）与俄罗斯、白俄罗斯、乌克兰、阿塞拜疆、摩尔多瓦、韩国CMO陆续签署相互代表协议。引进俄罗斯、美国、英国、法国、比利时、爱尔兰话剧，向俄罗斯输出诺贝尔文学奖得主、中国作协副

The right of theater performances: (an innovation of the CWWCS) Having signed mutual representation agreements with CMOs of Russia, Belarus, Ukraine, Azerbaijan, Moldova, and South Korea. Introducing Russian, American, British, French, Belgian and Irish dramas, and exporting to Russia "Frog", a play written by Mo Yan, the Nobel Prize Laureate in Literature and Vice President of the Chinese Writers' Association (CWA).



主席莫言的话剧《蛙》，获得俄罗斯金面具奖八项大奖提名。戏剧演出、剧本出版、沙龙讲座、文创开发，开展多版权运营。

The play was nominated for eight awards at the Golden Mask in Russia. Engaging in multi-rights operations such as theater performances, script publishing, salon lectures, and cultural and creative development.





CMO存在的问题

CMOs' challenges

- **内部问题：**内部治理需要加强，管理制度、人才激励机制，人员素质提升；宣传不到位；新技术应用不足；CMO的本质功能和作用还没有充分挖掘和展示；国家支持力度需要加大，政策扶持；合力不够。

Internal challenges: Internal governance needs to be strengthened, such as management system, talent incentive mechanism, and personnel capabilities; Promotion is insufficient; Application of new technologies is inadequate; CMOs' essential functions and roles have not been fully explored and demonstrated; National support, especially policy support, needs to be increased; and insufficient synergy.



□ 外部问题： External challenges:

——收费难，使用者守法和付费意识有很大进步但仍需进一步提高

—— Difficulty in charging fees. Users' law-abiding and fee-paying awareness has seen great progress but still needs to be further improved.

——广电播放已发表作品法定许可付酬标准长期缺失，广电法定许可获酬权成为“空头支票”

—— Long-term absence of statutory licensing and remuneration standards for broadcasting published works by broadcasters. The right of broadcasters to receive remuneration for statutory licenses has become an "empty check".

——重点领域侵权盗版屡禁不止，维权压力大，工作量大，权利人对知识资源平台、电子书有声书平台、网络转载投诉多

—— Repeated infringements and piracy in key areas. This leads to heavy pressure and workload in rights protection, and a large number of complaints from right holders against knowledge resource, e-book and audiobook platforms, and online reproduction

——非法集体管理的困扰，CMO名称和功能被滥用

—— Illegal collective management. The names and functions of CMOs are abused



□ 主要原因：

□ Main reasons:

——法律法规司法解释不完善，需要与时俱进，尽快修改完善。

—— Judicial interpretations of laws and regulations are inadequate and need to be revised and improved as soon as possible to keep up with the times.

——非法集体管理扰乱市场。

——Illegal collective management disrupts the market.



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- 非法集体管理行为种类:
 - Types of illegal collective management acts:

- 擅自从事法律法规规定应当由著作权集体管理组织承担的职能;
- 排除、妨碍、干扰著作权集体管理组织正常工作;
- 滥用著作权集体管理组织的地位、名称、名誉
- 影响作品传播, 扰乱著作权集体管理市场秩序
- Unauthorized engagement in functions that should be undertaken by CMOs as stipulated by laws and regulations;
- Excluding, hindering or interfering with the work of a CMO;
- Abusing the status, name and reputation of a CMO
- Influencing the dissemination of works and disrupting the market of CMOs



建议与思考

Advice and reflections

- 希望《著作权法实施条例》《著作权集体管理条例》的修改纳入2024年国务院立法工作计划，并完成修订。
- It is hoped that the revision of the *Regulations on the Implementation of the Copyright Law* and the *Regulations on Collective Management of Copyright* will be incorporated into the legislative work plan of the State Council in 2024, and the revision will be completed.
- 希望加快制定《推动版权产业高质量发展的指导意见》，总结CMO助力版权强国建设的实践做法和经验，版权产业发展和民间文艺版权保护与产业发展试点经验，为版权法制建设和产业发展提供指导性和方向性规定
- It is hoped that the formulation of the *Guiding Opinions on Promoting the High-Quality Development of the Copyright Industry* will be accelerated to summarize the practices and experience of CMOs in assisting China in developing into a copyright powerhouse, the development of the copyright industry and the pilot experience of copyright protection and industry development of folk arts and culture, and to provide guiding and directional provisions for the development of the copyright legal system and the development of the industry
- 最高法应完善相关司法解释：（1）将北京高院的司法文件成熟做法纳入司法
- The Supreme Court shall improve the relevant judicial interpretations: (1)



解释，使用者将作者身份不明的作品使用费向CMO提存的，法院应该按照国家或CMO的标准判决赔偿。采取措施，遏制商业维权，避免不合理地利用珍贵的司法资源，让诉讼沦为恶意商业诉讼牟利的工具，避免损伤主动支付版权费的使用者尊法学法守法用法的积极性。

Incorporating the mature practice of the Beijing Municipal High People's Court 's judicial documents into judicial interpretations. If users deposit royalties for works of unknown authorship with the CMO, the court should determine compensations in accordance with state or CMO standards. Measures should be taken to curb commercial rights protection, preventing the unjustified exploitation of valuable judicial resources. This is also to prevent litigation from devolving into a tool for profit in malicious commercial disputes, and to avoid dampening the enthusiasm of users who willingly pay royalties to respect, learn, and adhere to the law.

（2）在法定许可情况下使用者拒不向CMO支付使用费的，CMO提起诉讼的，人民法院应该受理。

(2) If a user refuses to pay royalties to a CMO under the statutory license, the people's court shall accept the lawsuit filed by the CMO.

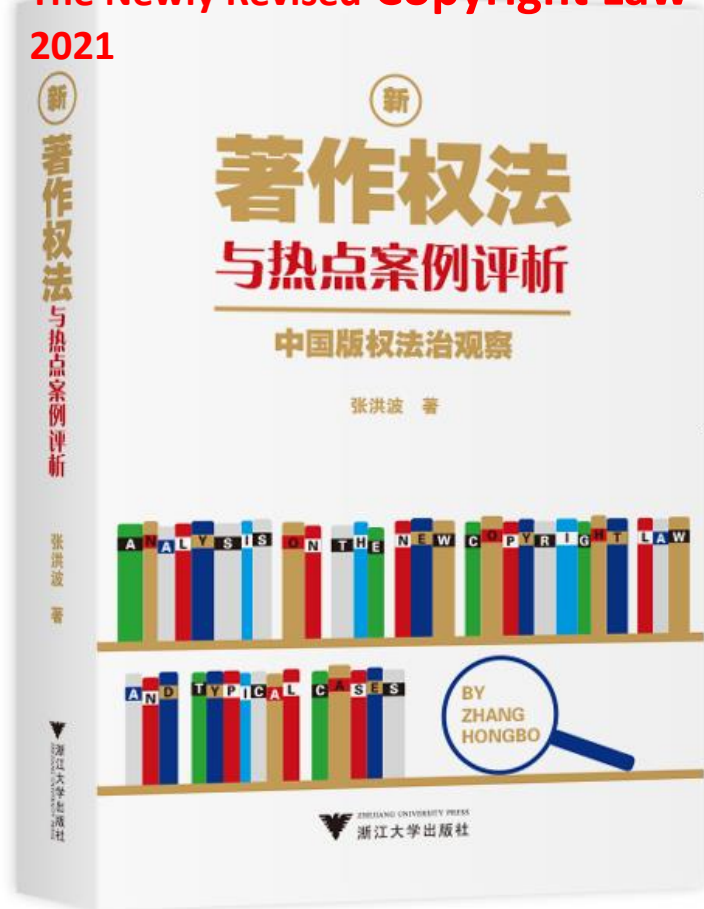


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- 《著作权集体管理条例》与《著作权法实施条例》修改时，应当保持一致。
 - *The Regulations on Collective Management of Copyright and the Regulations on the Implementation of the Copyright Law* should be consistent when they are amended.
 - 加大对电商平台、有声读物平台、知识服务平台、网络转载、网络直播等领域侵权盗版的著作权法执法检查 and 著作权行政执法力度
 - Strengthening the enforcement inspections of the *Copyright Law* and the administrative enforcement of copyright infringements on e-commerce, audiobook, and knowledge service platforms, and in online reproduction, online broadcasting and other fields
 - 对非法集体管理行为进行界定，并严格行政执法，为CMO发展创造有利环境
 - Defining illegal collective management practices and ensure strict administrative enforcement to create a favorable environment for CMOs' development
 - 加强版权宣传教育培训，通过实例让权利人、产业界、社会公众认识版权的价值，尊重版权的重要性、迫切性、必要性。
 - Strengthening copyright publicity, education and training, and enabling right holders, industry and the public to recognize the value of copyright and the importance, urgency and necessity of respecting copyright through real-life cases.



新修订的《著作权法》自2021年6月1日起施行

The Newly Revised Copyright Law Took Effect on June 1,
2021



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holders and promote industry
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感谢聆听!
Thanks!



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