



## PRC IP Law Newsflash

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### CHINA ISSUES NEW RULES AGAINST ILLEGAL ONLINE MUSIC PRODUCTS

#### Introduction

On 12 January 2011, the Office of the Ministry of Culture (**MOC**), after shutting down 237 illegal online music websites, further issued the *Notice on Cleaning Up Illegal Online Music Products* (**Notice**), demanding that 100 online music products that have not undergone content examination or have not been registered with the MOC should be deleted before 28 February 2011. The Notice will affect the distribution of music products via the Internet and as such it is crucial to analyze its potential effects. TransAsia Lawyers summarizes and briefly comments on the major points of the Notice as follows:

#### Key Provisions

##### 1. Removal of 100 illegal online music products

The Attachment to the Notice lists 100 online music products, including those of famous foreign and local artists. According to the Notice, these are music products, which have not undergone content examination or have not been registered with the MOC as required by the *Provisional Rules on the Administration of Internet Culture* and as such should not be offered by online music websites for play, audition, use or download.

The Notice demands that all search engines, portal websites, industry websites, entertainment websites and enterprise or individual websites should perform self-inspection and self-correction by 28 February 2011, deleting the online music products listed in the Attachment from their websites. Any website that fails to do so will be punished according to the law.

However, according to some officials of the MOC, the relevant enterprises (such as record companies) possibly may correct the issue by applying for content examination or registration of relevant music products with the MOC before the 28 February 2011 deadline. Once approved, those music products could be distributed through the Internet legally.

## 2. Censorship and Registration

The Notice further requires that any entity engaged in online cultural activities, such as providing online music products and services, shall comply strictly with the *Provisional Rules on the Administration of Internet Culture* and other relevant rules and obtain the relevant qualifications needed to do so; imported online music products shall undergo content examination by the MOC, and local online music products shall be registered with the MOC. Failure to do so will be punished according to the law.

The MOC states that it will keep enforcing the removal of illegal online music products which fail to undergo censorship or are not registered to bring order to the online music market. It also published a complaints hotline for the public to report illegal content.

### Commentary

According to the Notice, any music product, which is intended for distribution through the Internet, should be submitted to the MOC for censorship or registration even if it has been examined and approved by the General Administration of Press and Publication for other types of media, such as on CDs, DVDs. This is a significant change in the examination and approval methods for music products.

This Notice does not mention music piracy *per se*. But it seems that, as a side effect, the Notice could block the online distribution of pirated music products which have not been registered with the MOC. However, this would not stop a website posting a pirated song which has been approved under this Notice.

Overall, the Notice places emphasis on the fact that music distributors must have their music independently registered with the MOC for online distribution. In addition, it may have a limited impact on online music piracy as well.

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