

# Overview of the Amendment of the Copyright Act under Act to Adjust Related Acts to Coordinate with the Conclusion of the Trans-Pacific Partnership Agreement and the Comprehensive and Progressive Agreement for Trans-Pacific Partnership

## 1. Overview of the Amendment

### (1) Extension of the term of protection for works, performances and phonograms

Category		Current Law	After the Revisions
Works	In general	50 years after the death of the author	70 years after the death of the author
	Anonymous or pseudonymous works	50 years after the work is made public	70 years after the work is made public
	Works attributed to an organization	50 years after the work is made public	70 years after the work is made public
	Cinematographic works	70 years after the work is made public (*)	70 years after the work is made public (*)
Performances		50 years after the performance	70 years after the performance
Phonograms		50 years after the publication of the phonogram	70 years after the publication of the phonogram

\* The term of protection for cinematographic works already satisfy the obligations of the agreement

### (2) Introduction of ex officio prosecution provision for some copyright infringement cases

Acts of copyright infringement currently constitute criminal offenses subject to prosecution only upon complaint will be subject to ex officio prosecution in cases which satisfy all of the following conditions:

(1) The infringer aims to gain a financial benefit or damage the profit that the owner of the copyright, etc. is expected to gain

(2) The infringer transfers or transmits copies of an unaltered original fee-based work, etc. to the public or reproduces a fee-based work, etc. for the purpose of transferring or transmitting it

(3) The profit that the owner of the copyright, etc. is expected to gain by offering or presenting a fee-based work, etc. is unreasonably damaged

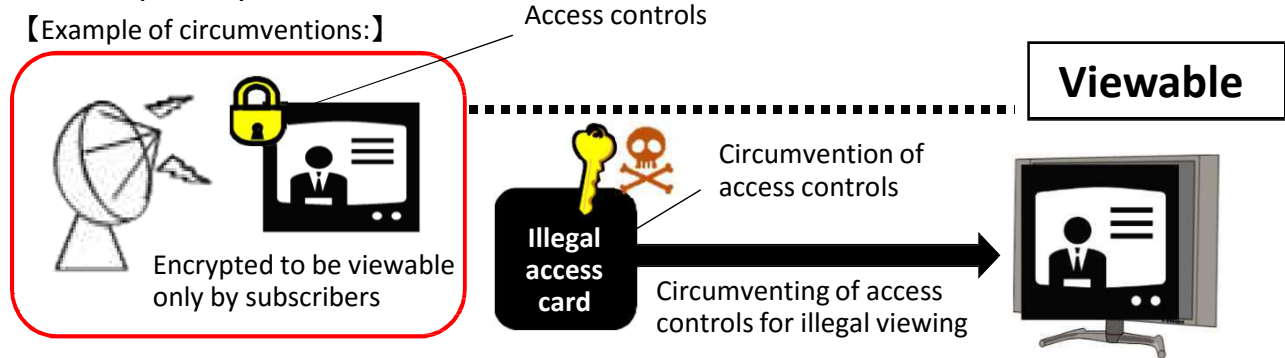
\* Works, etc. that are offered or presented to the public for a fee

Cases of infringements that will be subject to ex officio prosecution	Cases of infringement that will remain subject to prosecution only upon complaint
Selling pirated versions of comics and novels that are currently on sale	Selling <i>dojinshi</i> or other types of derivative comics at the Comic markets
Distributing pirated versions of movies online	Posting parodies of comics on a blog

### (3) Measures to prevent circumvention of access controls

The act of circumventing effective technological measures for the management of works, etc. (“access controls”) without authorization shall be deemed to constitute copyright infringement \*, excluding cases in which the interests of the owner of the copyright, etc. are not unreasonably harmed. Also, acts of transferring a device with a function that circumvents “access controls” to the public shall be subject to criminal penalty.

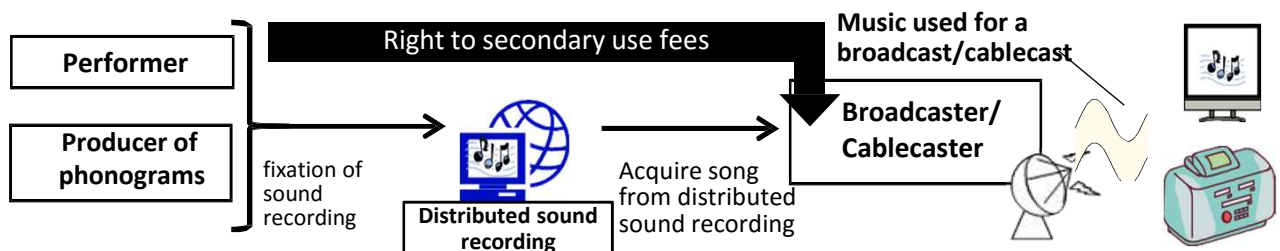
\* Not subject to criminal penalty.



### (4) Providing rights to secondary use fees of phonograms through online music distribution

The rights of performers and producers of phonogram to secondary use fees when a broadcaster or cablecaster uses a CD or other commercial-use phonogram for a broadcast or cablecast have been expanded to cases where a broadcaster or cablecaster uses “phonograms made available for transmissions\*” for a broadcast or cablecast.

\* Sound recordings disseminated directly, via the internet or otherwise, without using CDs or other commercial-use phonograms.



### (5) Review of regulations pertaining to compensation for damages

If the infringed copyright, etc. is managed by a Collective Management Organization (CMO), the right holder will be able to request compensation for damages for an amount calculated based on the CMO’s royalty rules(the highest amount if there are multiple amounts).

#### 【Current stipulations for compensation for damages】

- No. of infringements x Profit from work of regular version
- Profit of the infringer
- Amount equivalent to royalties



#### 【Proposed revisions】

Copyright holder can request an amount calculated based on the CMO’s royalty rule

Ex.: If a karaoke facility for 1,000 days playing 30 songs per day without paying the ¥120 per song set in the royalty rules

➡ ¥120 per song x 30 songs x 1,000 days = ¥3.6 million can be demanded

## 2. Date of Enforcement

The date that the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) enters into force in Japan (30 December, 2018).