

# Provisions on the Rights to Copy, Distribute, and Communicate Works under the Law on Copyright in Vietnam and Orientation for Completing

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## Abstract

The article studies the legal provisions on copyright in Vietnam related to rights to copy, distribute and communicate works. They are considered essential and are commonly used in the economic rights of authors and copyright holders, especially e-books. It is allowed to copy, distribute, and communicate works as well as exceptions to enable other subjects to use these economic rights. This shows a huge change so that Vietnam can keep up with copyright protection in particular and build a legal foundation in line with the requirements of international integration in intellectual property in general. The authors used the method of document research to clarify the content of the historical formation and development of provisions on cases from 1945 when Vietnam had its first Constitution up to now. In addition, the author also analyzes and evaluates the existing limitations in the current Vietnamese legal provisions on the cases in which it is allowed to copy, distribute and communicate works; measures to handle infringements; at the same time, propose solutions to complete orientation.

**Keywords:** Copyright, copy, distribute, communicate, e-book, exceptions to copyright

## 1. Introduction

On the fundamental principle of protecting the value of human labor, Vietnamese law aims to protect legal property. The 1994 Ordinance on Copyright Protection has shown the recognition of copyright, and the 2005 Intellectual Property Law is gradually complete after many amendments.

When it comes to the rights to copy, distribute and communicate works, they are the exclusive rights of the copyright owners<sup>1</sup>. In other words, these are the authors' exclusive rights if they have economic rights. According to the provisions of Article 21 of Decree No. 22/2018/ND-CP<sup>2</sup>, the right to copy the works belongs to the copyright owners to exclusively make or authorize others to make copies of the works by any means or form including making copies in electronic form.

In the world, many different theories surround these authors' exclusive rights. For instance, the point of view of the EU and the USA is based on the exhaustion doctrine that has been guided by the rulings of the Court of Justice of the EU and the courts of other member states<sup>3</sup>. Accordingly, the exhaustion doctrine is presented in the Directives of EU such as Directive 2006/115/EC, Directive

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<sup>1</sup> Recognized in the group of property rights in Article 20 of the Intellectual Property Law

<sup>2</sup> Decree 22/2018/ND-CP dated February 23, 2018 detailing a number of articles and measures to implement the 2005 Intellectual Property Law and the Law amended and supplemented in a number of articles of the Intellectual Property Law of 2009 on copyright and related rights.

<sup>3</sup> Poorna Mysoor (2018), Exhaustion, Non-exhaustion and Implied Licence, <https://link.springer.com/article/10.1007/s40319-018-0721-3>, [accessed on 16-Dec-2021]

2001/29/EC, Directive 1996/09/EC, etc. The exhaustion doctrine means that copyright owners will forfeit their exclusive rights when distributing originals or copies of protected works through legal contracts put into circulation by their consent or by any other authorized persons (through sale or any other transfer of ownership). Besides, Péter Mezei (2015) presented a new "New copy theory" theory to further protect copyrights of works in digital environments and media networks. Accordingly, the point of view is that the exhaustion doctrine applies only to the right of distribution, hence not to the right of reproduction. However, the copyright laws of the EU (and most member states) allow reproduction for private purposes, and it is also acceptable under fair use theory. In other words, under the exhaustion doctrine, the legal purchasers of the protected subjects can only resell the "specific copy" they own. Hence, creating a "new copy" may lead to the exclusion of that doctrine's applicability. Therefore, the rights to copy, distribute and communicate works in digital environments are so essential that every country must specify the theoretical direction to apply. These are fundamental economic rights and significantly greatly affect the rights of right holders in using and exploiting these, especially for works such as e-books. The communication can be originated from the author. Self-publishing, distribution, and self-applying of effective technological measures ensure copyright rights. Or there is a publisher through an agreement with the author to act as a bridge to communicate works like e-books to the public as a printed book needs a traditional publisher. In addition, intermediary service providers set up a system to check, monitor, and process information entered, stored, and communicated on the internet, the telecommunication network, to prevent violations of copyright and related rights<sup>4</sup>. All of the issues are considered to have a clear view in the development and application of appropriate legal requirements. Vietnam is also trying to build a culture of copyright protection.

The article focuses on clarifying two research questions: how Vietnam has regulated the use of the rights to copy, distribute, and communicate works. Besides, the article presents what Vietnam should do to continue to improve the legal provisions for the best protection of the rights to copy, distribute and disseminate works against infringements.

## **2. The Process of Formation and Development of Provisions on the Rights to Copy, Distribute and Communicate Works in Vietnam**

Among the property types prescribed in Vietnamese law, intellectual property rights are more difficult to access than others due to their intangibility. Therefore, their use and exploitation have also received the attention of the Vietnamese State quite early, especially in terms of copyright. Above all, the use of the rights to copy, distribute, and communicate works is particularly paid attention to in the law on intellectual property and related legal documents such as the Law on Information Technology, Law on Publication, and documents on the network environment, etc. All of these will be seen in the timeline from recognizing the value of intellectual labor in the 1945 period and the first Constitution in 1946 to the present.

### **2.1. The Period from 1945 to 1986**

The 1945 period was marked by the birth of the Democratic Republic of Vietnam. The consequences of the war and the centrally planned economic policy made the provisions of the law on domestic copyright protection outdated for a long period, characterized by low protection. When Vietnam implemented the policy of economic renewal and integrated into the world, the legal system of

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<sup>4</sup> Article 4, Article 3 of Joint Circular No. 07/2012/TTLT-BTTTT-BVHTTDL stipulating the responsibilities of intermediary service providers in the protection of copyright and related rights on the Internet and telecommunications networks environment.

Vietnam in general and the copyright protection system, in particular, have been gradually improved, catching up with the progress of the world<sup>5</sup>.

In the 1945s of the last century, the 1946 Constitution prescribed that “*the rights of intellectual and manual workers are guaranteed*”<sup>6</sup>. The rights to copy, distribute and communicate works were first recognized by Vietnamese law in Article 10 of the 1946 Constitution, which is defined as a citizen's right in which it is regulated as “*freedom of the press*”. The 1959 Constitution stipulated that “*The state encourages the creativeness and the enthusiasm in the labor of manual and intellectual workers*”<sup>7</sup> and “*Citizens of the Democratic Republic of Vietnam enjoy the freedom to engage in scientific research, literary and artistic creation, and other cultural pursuits. The state encourages and assists creative work in science, literature, art and other cultural pursuits.*”<sup>8</sup>. Article 34 of the 1959 Constitution did not specify authors' rights or the rights to copy, distribute, and communicate works but empowered and supported the freedom of creative work in science, literature, art, and other cultural pursuits. Article 72 of the 1980 Constitution affirmed that copyright was guaranteed – “*The rights of authors, inventors and inventions are guaranteed*”.

In 1986, Decree 142/HDBT issued on November 14, 1986, of the Council of Ministers, accompanied by Circular No. 04-VH/TT of the Ministry of Culture guided this Decree. This Decree has created a legal premise to meet the needs of legal right protection for the authors in case the authors have to register their works. Specifically, they are provisions on the authors, the types of protected works, the authors’ spiritual and material rights, the term of copyright protection.

With the above provisions, it can be seen that Vietnamese law is gradually regulating the protection of copyright values. It represents progressive and humanistic thoughts of human beings. However, the specific provisions on the rights to copy, distribute, and communicate works have not been mentioned. They are the rights of freedom of speech and freedom of the press of citizens; the State's commitment to protecting the rights of knowledge.

## 2.2. The Period from 1987 To 1995

After a period of implementation under the provisions on copyright, the Decree 142/HDBT and Circular 04-VH/TT have not yet specified the fundamental rights of the authors. If the types of works are still limited, the provisions on use exploitation and distribution have not explicitly been recorded. However, by the time the Ordinance on the protection of copyright was passed on December 10, 1994, the right to reproduce the works that are “*Make a reproduction for private use; Make a reproduction of a work for archival purposes or use in libraries*”<sup>9</sup> was recorded. With this provision, individuals and organizations are allowed to use works of others that have been published or disseminated if it is not for commercial purposes, without affecting the normal exploitation of results and without infringing upon other rights of the authors.

Article 60 of the 1992 Constitution, amended and supplemented in 2001, confirmed and clarified the guaranteed copyright. Significantly, the introduction of the 1995 Civil Code. The provisions on “reproduction of works” remained as the previous Ordinance, but the legal effect was more evident than the last general provision. At Point a Clause 2, Article 8 of Decree 76/1996/ND-CP guiding the implementation of some provisions on copyright in the 1995 Civil Code, copying works is a form of “*the authors’ rights to publish or disseminate the works or to allow others to publish and disseminate the works*”. Hence, the rights to copy, distribute and communicate works are for the right holders only.

<sup>5</sup> Tran Van Nam: *Copyright in Vietnam, law and enforcement*, Hanoi Judicial Publishing House 2014, p. 14.

<sup>6</sup> Article 13 of the 1946 Constitution.

<sup>7</sup> Article 21 of the 1959 Constitution.

<sup>8</sup> Article 34 of the 1959 Constitution.

<sup>9</sup> Article 16 of the 1994 Ordinance on the Protection of Copyrights.

### 2.3. The Period from 1996 To 2005

To meet new development needs according to the development of the legal system, social mobilization, and international integration requirements, including copyright. On June 14, 2005, the 11th National Assembly, 7th session, approved the 2005 Civil Code. Accordingly, the term copying, distribution and communication of works was officially introduced. This was also when Vietnam became a member of the 1886 Berne Convention (amended and supplemented in 1979) to protect literary and artistic works<sup>10</sup>. In Vietnam, Article 738 of the 2005 Civil Code states that “*Economic rights in copyright include: a) To copy the works; b) To permit the creation of derivative works; c) To distribute, import the originals and copies of the works; d) To disseminate the works to the public; dd) To lease the originals or copies of computer programs.*” Meanwhile, it did not mention the authorized use of other subjects in exceptional cases, such as the exception of the right to copy.

On November 29, 2005, in the face of the requirement to integrate into the World Trade Organization (WTO), the 2005 Law on Intellectual Property was passed by the National Assembly of the Socialist Republic of Vietnam, term XI, at its 8th session. This marked the development of intellectual property law to become an independent law. Although inheriting the 2005 Civil Code provisions, the copying, distribution, and communication of works has become more open. In particular, published works used in scientific research, teaching, or archived in libraries may also be reproduced<sup>11</sup> within the framework of statutory conditions.

### 2.4. The Period from 2006 to Present

Since the 2005 Intellectual Property Law was introduced, detailed guidelines on copyright have been mentioned. However, the rights to copy, distribute and communicate works have remained within the discretion of the right holder. In particular, copyright is not recognized in a separate document but is generally provided for in the 2005 Intellectual Property Law. Reproduction is defined as “*Reproduction means the making of one or many copies of a work or a phonogram or video recording by whatever mode or in whatever form, including permanent or provisional backup of the work in electronic form.*”<sup>12</sup> Thus, the provision on copying also has a specific concept in any form or medium. This shows a gradual adaptation to the development of digital technology.

Due to society's changing and developing needs, especially international integration, on June 19, 2009, at the 5th session, the 12th National Assembly approved the Law amended and supplemented in many articles of the 2005 Intellectual Property Law. Especially after Vietnam joined the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (in the future referred to as the CPTPP Agreement), with the very high level of intellectual property protection requirements, The National Assembly passed the Law amended and supplemented in some articles of the Intellectual Property Law passed on June 14, 2019. However, with general provisions, copying, distribution, and communication of the works retain the spirit of the previous clauses. Notably, the Joint Circular No. 07/2012/TTLT-BTTTT-BVHTTDL dated June 19, 2012, of the Ministry of Information and Communications and the Ministry of Culture, Sports and Tourism for stipulating the rights and obligations of intermediary service providers in the protection of copyrights and other rights related to the Internet environment and telecommunications networks. This joint circular mentioned the role of management and control of copyright-related content and intermediary services, marking the catch-up of the world's development and the commencement of completing the legal provisions related to copyright issues on the Internet.

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<sup>10</sup> Article 9 of the Berne Convention regulates that “*Legislation in the countries of the Union permits the reproduction of such works in certain special cases, provided that such reproduction does not conflict with a normal exploitation of the work and does not unreasonably prejudice the legitimate interests of the author*”.

<sup>11</sup> Article 25 of the 2005 Intellectual Property Law

<sup>12</sup> Article 4 of the 2005 Intellectual Property Law

The introduction of the 2013 Constitution, followed by the 2015 Civil Code, has once again affirmed the independence for protecting intellectual property rights in general and copyright in particular. It is more clearly stated when the provisions on intellectual property rights of the 2015 Civil Code have been dedicated to the 2005 Intellectual Property Law. This has reduced the redundancy of conditions, avoiding unnecessary overlap in the application and enforcement of the protection of intellectual property rights.

Vietnam is always actively and proactively catching up with international requirements. After two revisions of the Intellectual Property Law in 2009 and 2019 (referred to as the Intellectual Property Law), the draft amendments to the Law on Intellectual Property are in progress, with many provisions to amend and supplement accordingly. In particular, the right to copy, distribute and communicate works has had many positive changes. It is more remarkable that the shared recognition angle that focuses on people with disabilities is also mentioned in the exceptions to copy. Specifically, that is *“Persons with disabilities, carers, persons who take care of people with disabilities have the rights to copy, perform, and communicate works in an accessible copy format when lawfully accessing to the original or a copy of the work.”*<sup>13</sup>

There is a significant change when re-evaluating the right to copy, distribute and communicate works in the previous provisions until they are officially stipulated in the 2005 Intellectual Property Law and related documents.

Firstly, the terms of copying, distribution, or communication of works have been officially recognized since the 2005 Civil Code and more fully realized in the 2005 Intellectual Property Law. This is an official document in line with international integration and shows that the Vietnamese government has paid more attention to the protection of intellectual property rights in general and the copyright in particular. The concepts were amended through many revisions to be more suitable for frequent use in relevant legal documents and practice. The terms of copying gradually changed to be more appropriate before the 2005 Property Law, towards “duplication” “reproduction” rather than “copying”. It is because the creation of physical copies such as photocopying printing while reproduction is not in that scope only. In the same way, that understanding and recording of copyright infringements are no longer on the national levels but on a global scale because of the immateriality of the acts in the digital and network environment. Besides, the rights to distribute or communicate the original or the copy of the works are the rights of the copyright owners to exclusively perform or permit others to do so by any means or technical means that the public can access, for sale, rental or other transfer of the original or the copy of the works.

Second, for expanding the scope of copying published works without asking for permission or paying royalties or remuneration, the previous provisions only aimed at that the copyright holders' copying, distribution, and communication of works were exclusive rights of the authors. It clearly showed the element of absolute monopoly. Until the Intellectual Property Law was introduced, the principle of balancing the interests of rights holders has been gradually expressed between the creators of the works and the beneficiaries of the works. Provisions limiting the author's exclusive reproduction rights are expressly provided for scientific research, teaching, or library storage. Currently, the draft amendment of the Intellectual Property Law is also aimed at learning and serving individuals.

Thirdly, expanding the groups of subjects entitled to copy, distribute and communicate works such as publishers, intermediary service providers, libraries, etc. it is reasonable with the joint development of the world. The communication and distribution of works are not only of the authors or the owners but also the publisher's participation to assist in the transmission to the public as an e-book. In addition, the birth of intermediary service providers has contributed to promoting faster and more convenient access to works in the network environment. The libraries, which store a lot of valuable and historical scientific knowledge, also need to be shared and used within the framework of

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<sup>13</sup> Article 25a Draft No. 5 (August 25, 2021) amended and supplemented in a number of articles of the Law on Intellectual Property.

the law. More specifically, the acts of copying and using also aim at the common interests of society with those who need support, such as people with disabilities.

### **3. Some Limitations and Inadequacies of the Provisions on the Rights to Copy, Distribute and Communicate Works in the Current Intellectual Property Law of Vietnam**

During the research process, the author notices the efforts of the Vietnamese government in providing the best protection of copyright in general, the rights to copy, distribute and communicate works in particular; at the same time, express a positive will in the desire to integrate into the world with adjustments and changes in views on recognition of rights as well as facilitating the implementation of general principles in the use of electronic works. However, besides the advantages of the legal provisions on the rights to copy, distribute, and communicate outcomes as analyzed, the current conditions in the Intellectual Property Law also reveal limitations when applied to e-books that currently needs to be reviewed and evaluated:

First, the Intellectual Property Law provides for the rights to copy as follows: “Reproduction means the making of one or many copies of a work or a phonogram or video recording by whatever mode or in whatever form, including permanent or provisional backup of the work in electronic form.”<sup>14</sup> The above provision has generally overlooked the act of copying a part of a work, which is considered a common practice in the exploitation and use of results. Mainly, for the copyright infringement of some individuals and organizations, they do not copy the entire work but a part of the work even on electronic works, causing difficulties for the authorities to handle.

Secondly, the provision at Point a, Clause 1, Article 25 of the Intellectual Property Law that is “*Duplication of works by authors for scientific research or teaching purpose*” is one of the exceptions to the copyright that the copyists do not have to ask for permission and do not have to pay royalties or remuneration. The above provision aims to facilitate readers to access information sources for scientific research, which is “*activities of discovering, detecting and understanding nature, laws of things, natural phenomena, societies and thinking, seeking innovative solutions for application in practice*”<sup>15</sup> and teaching. The above purposes of use are necessary to help users access information. However, there are some problems in the application process, which are analyzed as follows:

- (i) There is no explanation for what an individual’s self-reproduction is. The provisions of the law do not explain what self-reproduction. From this point of view, it can be said that self-reproduction is the act of users who bring documents to the photocopier and perform copying.
- (ii) According to the provisions of Point a, Clause 1, Article 25 of the Intellectual Property Law above, the law does not allow the copying of electronic works for learning purposes. However, it is found that this is an essential need to access information for learning. But with the above provision, the law is creating a barrier that makes it difficult for individuals and groups of subjects to have needs in copying resources in the library for learning purposes.
- (iii) Whether it is appropriate for the exception to be allowed to reproduce only one copy in the digital environment, where producing is relatively fast and easy. Therefore, the provision of the limit of one copy will be difficult to implement in practice and lack of conformity at present. Perhaps it is unnecessary.

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<sup>14</sup> Clause 10, Article 4 of the Law on Intellectual Property.

<sup>15</sup> Clause 4, Article 3 of the 2013 Law on Science and Technology.

Thirdly, in terms of the infringement of the rights to copy, distribute and communicate the work, there are many types of jobs such as music, movies, computer programs, etc., which are infringed. Currently, the typical cases in the network environment can be mentioned as e-books. Because the copying, distribution, and communication of e-books are necessary for the educational, scientific, and entertainment environment. At the same time, this act will affect the authors, the owners, the publishers, and the intermediary service providers. Therefore, it is understandable that the illegal copying and sharing of e-books will deprive the authors and owners of the copyrighted e-books of profits. According to Atlassian News (2011), the only acceptable time is legally allowed to copy books is when the user copies the e-book files onto the computer's hard drive. Any computer owned and controlled by the owner of the e-book converting the e-book to hardcopy is acceptable. Printing of e-books on paper is permitted as long as such copies are not illegally sold or shared. Individuals who have purchased the e-book can lend it to family members or friends if they do not make copies. If copies are made, the e-book owner is considered untrustworthy and charged with an offense.<sup>16</sup> Thus, if the copying and distribution of works in the network environment are for personal use, it will not be considered infringing and vice versa.

Currently, there are many technological measures to assist in preventing illegal copying. Infringers still try to infiltrate and disable copyright protections. In addition, for an e-book that has been sold, how to regulate to ensure that copying, distribution, and subsequent sale do not occur. Hence, finding possible measures to prevent and handle the acts of copying and distributing electronic data in general and e-books, in particular, is equivocal at present. Therefore, there should be more specific provisions on infringements in Article 28 and documents related to sanctions for these new acts. The law on copyright protection of Vietnam through technological measures, sanctioning, compensation, or criminal handling has not kept up to regulate infringements in the digital environment, especially the network environment<sup>17</sup>. Therefore, it is required to have more effective measures to support the traditional handling measures that Vietnam has currently applied.

#### **4. Conclusions and Proposals for Some Solutions to Improve Vietnam's Intellectual Property Law on the Rights to Copy, Distribute and Communicate Works**

The birth of the Intellectual Property Law marked joining the WTO. In terms of the content, the intellectual property was officially separated from other property types as stipulated in the 2005 Civil Code. In which copyright is mentioned more profoundly and in more detail. In addition, the Intellectual Property Law is also a foundation to bring the intellectual property protection system of Vietnam to meet the standards of international commitments. Primarily, it is now necessary to meet the obligations of free trade agreements (FTAs) to which Vietnam participates. Therefore, the Intellectual Property Law was revised twice in 2009 and 2019 with specific achievements.

The provisions on the economic rights of copyright holders are also diversified and expanded. It does not follow the conservatism of absolute copyright monopoly. Still, it always aims for the common interests of society, the desire to support the principle that intellectual property is for the common interests. Because the recipients are the public, the work is significant. Therefore, the copying, distribution, and communication of works are also expanded in many ways to understand and apply more freely. However, with more requirements from practical application and the increasing development of the internet environment, Vietnamese law also encounters many difficulties in adequately regulating the rights to copy, distribute and communicate E-book. The application of those

<sup>16</sup> Read: Atlassian News, *How does Copyright Law apply to EBooks?* <https://wikispaces.psu.edu/display/IST432SP11Team18/How+does+Copyright+Law+apply+to+EBooks>, accessed 7/22/2021

<sup>17</sup> Refer to: Nguyen Thi Ngoc Tuyen, *Copyright protection measures under Vietnamese law - Comparison with CPTPP Agreement*, Science and Technology Development Journal: Economics-Law and Management, Issue: [Vol 5 No 4 \(2021\)](#). DOI: <https://doi.org/10.32508/stdjelm.v5i4.746>

rights involves the participation of parties such as publishers, libraries, and users of e-books. Therefore, to be more complete and timely adapt to the typical demands of society, the principle that legal provisions must balance the interests of the right holders and the interests of community, the authors propose the following solutions:

Firstly, to further improve the regulations on the right to copy, to avoid omitting any infringement on this right, the author believes that it is necessary to amend and supplement the provisions on the term of copying as follows “*Copying is the make copies of all or a part of a work, phonogram or video recording by any means or form*”. The above addition provides that copying the entire work and a part of the work. With this provision, copying creates a copy of the entire work and creates a copy of a part of the work. With this modification, the writer considers it suitable to social practice, more comprehensive, and complete. At the same time, it is the basis for dealing with acts of copying works without the consent of the authors or copyright owners.

Secondly, the law needs to provide provisions explaining what the act of “self-copying” is. If possible, it can be demonstrated that self-copying is making a copy or asking the unit to use the copying service. Making a copy or requesting it must be under the intended use as prescribed by law. In addition, the law should stipulate the responsibility of the subjects in the performance of copying acts and for the matters who need to be responsible for themselves if the act of copying and using the copy is not for the proper purpose as prescribed.

Regarding the issue of self-copying by individuals for learning purposes, which specified at Point a Clause 1, Article 25 of the Intellectual Property Law, should be added as follows “*Self-copying is for the personal purposes of scientific research, teaching and learning but commercial purposes. This copying does not affect the normal exploitation of the work*”. This may refer to other countries such as Sweden, Japan, and the United States. In the Swedish Copyright Law, copying in educational activities is also recognized by authorized copying means.<sup>18</sup> Meanwhile, the Copyright Law of Japan<sup>19</sup> noted that if the work is used for personal purposes and family use, it can be reproduced. More specifically, the Copyright Law of Japan has a separate section that regulates copying in schools and educational agencies in Article 35. Published work may be reproduced to the extent of recognized necessity during the teaching process. Teaching can use multiple copies for the United States Copyright Law provisions for the classroom. However, factors such as non-profit factors, factors affecting market potential, or whether the work has been published or not must be met. It has extended the limited scope of the right to use the work by allowing the reproduction of the work to be larger than that recognized by Vietnamese law<sup>20</sup>. Thus, recording the quantity of only one copy, in this case, is unnecessary and should be adjusted as suggested.

Thirdly, for acts of infringement when copying, distributing, and communicating works, it is necessary to pay more attention to the network environment when the actual behavior is very sophisticated and fast. With the role of providing intermediary services in the protection of the rights to copy, distribute and communicate electronic works, individuals and organizations providing social networking services need to actively equip themselves with the knowledge necessary of information technology, digital as well as skills to check, detect acts of infringement of the right to copy, distribute and communicate electronic works to take measures to handle and prevent timely. In addition, enterprises providing intermediary services must be more active in controlling information posted on social networking platforms, applications, and websites on the Internet; removing and deleting digital

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<sup>18</sup> Articles 13, 14 of the 1960 Literary and Artistic Copyright Law of Sweden (amended and supplemented in 2000), <http://www.cov.gov.vn/tin-tuc/luat-quyen-tac-gia-tac-pham-van-hoc-va-listen-thuat-cua-thuy-dien>.

<sup>19</sup> Article 30 of the 1970 Copyright Law of Japan (amended and supplemented in 2013), [http://www.cov.gov.vn/ckfinder/userfiles/files/Luat%20Quy%20tac%20gia%20Nhat%20Ban%20Copyright%20Act%20of%20Japan%202014\\_03\\_24.pdf](http://www.cov.gov.vn/ckfinder/userfiles/files/Luat%20Quy%20tac%20gia%20Nhat%20Ban%20Copyright%20Act%20of%20Japan%202014_03_24.pdf).

<sup>20</sup> Nguyen Thi Ngoc Tuyen (2018). *Limitation of copyright in copying and quoting works from a comparative law perspective*. Industry and Trade Magazine, No. 10. Page 28.

information contents infringe the rights to copy, distribute, and communicate electronic works quickly promptly. On the other hand, Internet service providers should strictly take measures against individuals who intentionally infringe on copyright. Perhaps the form of forced removal and locking of the social network account of the person who committed the copyright infringement is too light, not enough of a deterrent because users can easily register for new accounts to continue participating.

According to Article 4 of the Joint Circular 07/2012/TTLT-BTTTT-BVHTTDL stipulating the responsibilities of intermediary service providers in the protection of copyright and related rights in the Internet and telecommunications network environment, enterprises providing intermediary Internet network services need to “*Set up a system to check, monitor and process information entered, stored, and communicated on the Internet and telecommunications networks to prevent infringing acts of copyright and related rights; unilaterally refuse to provide services contrary to the provisions of the law on copyright and related rights.*” In addition, this circular should specify the responsibilities of the Internet and telecommunications network service providers infringing the copyrights in case they are the focal point of posting or providing digital information content through the Internet, telecommunications network environment without the consent of the right holders. Moreover, Internet service providers need to disseminate the sense of respect for copyright on the Internet to service users, warn of liability for civil damages, the possibility of administrative sanctions, prosecution for penal liability for social network users who infringe on copyrights. At the same time, request service users to commit to fulfilling their responsibility to ensure the lawful use of digital information content posted on the Internet.

In addition, according to the author, in Vietnam, besides using civil, administrative, and criminal handling measures, it is necessary to have a specialized information channel on copyright issues on the internet like Korea's, France's. Specifically, the Korean government operates a “registration system named Webhard”<sup>21</sup> to reduce the online distribution of illegal copies. They also work a system to collect and analyze the evidence relating to the digital infringement of copyright which significantly enhances the investigative capabilities of the special judicial police force for copyright protection.<sup>22</sup> France strictly protects copyright on the internet with the birth of HADOPI. It is a great organization, an independent agency in charge of disseminating works and protecting rights on the Internet; solving copyright-related issues on the Internet. All human and financial resources are concentrated to solve a single problem that is copyrights on the Internet.<sup>23</sup> For Vietnam, the orientation is to have a specialized subject in the network environment to directly deal with infringing acts upon the rights to copy, distribute and communicate illegal works in the form of digital.

In summary, to protect the rights to copy, distribute and communicate works that are e-books in particular and works circulated on the network environment, it is necessary to develop detailed provisions on copying, distributing, and transmitting works. Also, it is required to have a specialized competent subject to review and evaluate infringements on the internet, and significantly to raise people's awareness of creating a culture of respect for copyrights in Vietnam.

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<sup>21</sup> Webhard service can be understood as a special online service provider (OSP) and must carry out the registration procedure → review registration → issue registration certificate.

<sup>22</sup> Read: Pham Thi Kim Oanh - Deputy Director of Copyright Department, *Copyright Protection - experience from Korea*, <http://www.cov.gov.vn/tin-tuc/bao-ho-ban-quyen-%E2%80%93-expertise-tu-han-quoc> [accessed 10-Sep-2020]

<sup>23</sup> Read: Nguyen Thi Hai Van, *Copyright protection in the digital environment: the research on experience in applying HADOPI law of France*, <https://www.agllaw.com.vn/bao-ho-quyen-tac-gia-in-moi-truong-ky-thuat-so-english-cuu-king-hiem-ap-dung-luat-hadopi-cua-cong-hoa-phapbao-ho-quyen-tac-gia-in-moi-truong-ky-thuat-so-nghien-cuu-king-nghiem-ap-dung-luat/> [accessed on 2-May-2020].

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