

# 2010 年报

# Annual Report 2010



中国音乐著作权协会  
Music Copyright Society of China



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# 前言

## Preface

协会2010年业绩为6801.86万元，比上一年度净增长59.9%，为协会自成立以来的最高业绩。增长主要来自广播权的成功突破和表演权的稳步增长，而广播权的突破更是意义非凡——中国广播组织音乐付酬的元年自此开始！

协会能在短短两年时间实现业绩转折并创出新高，与我们国家知识产权内外部环境的持续改善以及协会这几年来的潜心蓄力不可分割。不夸张地讲，协会经过多年的努力积累，在2010年结结实实打了几场硬仗。

其一，协会与中央电视台经过激烈艰苦的谈判，终于在9月21日成功签约。二十年来，中国内地音乐创作者苦盼的广播权付酬终于开花结果，给音乐创作者带来了实实在在的收益。虽然这果实还不够丰满，继续耕耘的道路也依然不会平坦，但是收获的季节已不再是飘渺无边的了。凡是伴着协会一路前行至今的老同志，相信对此都会有太多感慨！

其二，中国政府成功举办了2010年上海世界博览会，作为上海世博会音乐著作权服务单位，协会倾力奉献，与有荣焉！面对上海世博会上浩大的音乐著作权工程，协会在国家著作权管理部门的指导和上海世博局的配合下，秉持为国家服务的一贯方针，积极投入，妥善协调，向各国参展者发放音乐著作权许可并作备案上百份，维护了世界范围音乐创作者的权益，展现了我国著作权保护的最高水平，保障了世博会的圆满成功。

其三，2010年7月，协会起诉百度公司侵犯音乐著作权一案，历时两载，终获胜诉。这一司法实践不仅开创了音乐行业权利人在对百度公司的维权诉讼中获胜的先例，而且对于中国互联网环境下的音乐正版化进程有着巨大的推动作用。借此东风，协会与百度公司的全面谈判亦已深入展开，相信协会必将在互联网音乐正版化进程中扮演越来越重要的角色。

这些成绩的取得让我们倍感欣慰，这证明我们的协会有着足够的战斗力，可以为维护音乐创作者的权益承担重任！但是，我们绝不会因此而有一丝一毫的自满和松懈，因为我们深深理解音乐创作者的维权艰辛，我们的每一步前进都必须付出百倍的汗水且要面对无数的冷眼！同样原因，我们更怀有感恩之心，感恩这唤醒权利意识的伟大时代，感恩社会各界的理解和支持。

协会的理事会换届工作将于2011年完成，相信在协会新一届领导班子的带领下，广大音乐著作权人将继续团结、坚持，奋勇前行！

MCSC's 2010 overall revenue reached about 68.02 million yuan RMB, a new record and increase of 59.9% over 2009. MCSC attributed its robust growth to the breakthrough in broadcasting licensing and the steady development of performing licensing. The breakthrough in broadcasting licensing is significant, marking a new era in which broadcasting organizations start to make payment for using music.

Thanks to both constant improvement of IP environment and our persistent efforts, MCSC successfully turned its decline in revenue and achieved a new high level of it in only 2 years. It is not exaggerated to say that MCSC had practically gone through several "tough battles" and finally triumphed in 2010.

Firstly, MCSC successfully reached an agreement with CCTV (China Central TV Station) on September 21 after several rounds of arduous negotiations, resulting in payment for broadcasting licensing in Chinese mainland, which music copyright owners had aspired to for almost 20 years. This brings about real benefits for music copyright owners. Although our gains are not sufficient enough, still threatened by uncertain challenges, prospective harvest could be expected. All veterans that have been working hard to protect music copyright together with MCSC are deeply moved by our current achievements at this very moment.

Secondly, the Chinese government successfully hosted the 2010 Shanghai World Expo and MCSC took pride in its glory by striving to provide music copyright services. Based on the principle of devotion to our motherland, MCSC actively worked on and well-arrange music licensing, issuing and registering over

one hundred music copyright licenses with guild of national copyright authorities and cooperation of Shanghai World Expo Business Coordinated Bureau. All MCSC have done maintains worldwide music copyright owners' legitimate rights, demonstrates the highest level of national copyright protection, and safeguards complete success of the World Expo.

Thirdly, MCSC took 2 years to finally win the case against Baidu for its infringement of music copyrights. This not only set first example for a music copyright owner to win lawsuit against Baidu in protecting its rights, but also pushed forward the process of legal utilization of music in network environment. This favorable momentum promoted MCSC to carry out negotiations with Baidu in an all round way. It is expected that MCSC will play an increasingly important role in accelerating the process of legal utilization of music.

The above-mentioned achievements are a great joy to us, indicating that MCSC is strong enough to shoulder hard tasks to protect interests of music creators. We will, however, never get complacent and slack, because we have gone through hardship imposed on music creators in protecting their own rights and this has convinced us that more efforts will be put than ever before while misunderstanding of our work be often caused. In this case, we are much gratified to live in such great era in which awareness of right has been aroused and gratified to get social understandings and supports as well.

New Directors of Board of MCSC will be elected in 2011 and they will lead music copyright owners to join hands to keep going forward.

# 会员工作

## Membership

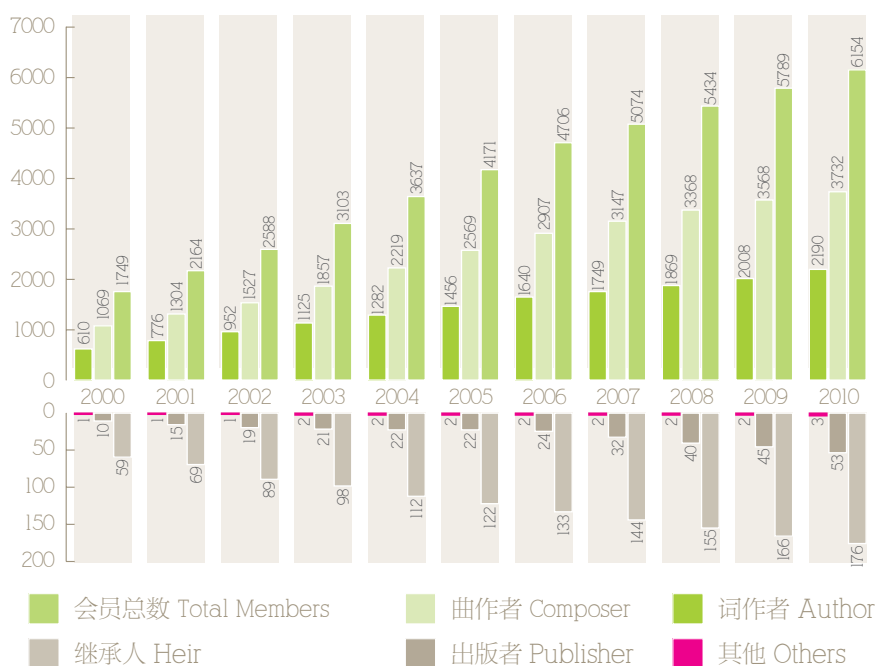
### 会员发展

#### New members

2010年,协会发展会员365人,其中词作者182人、曲作者164人、继承人10人、出版公司8家、其他1人。截至年底,协会会员总数达到6154。

In 2010, MCSC attracted 365 new members, which consisted of 182 authors, 164 composers, 10 heirs, 8 publishers and 1 other. By the end of 2010, our total members reached 6,154.

2000-2010年会员人数及组成图  
Membership and composition diagram from 2000-2010



### 协会会员大会暨理事会换届会的召开说明

#### Clarification of Holding MCSC General Assembly & Election Session of Board of Directors

协会原本定于2010年召开会员大会并进行理事会换届,但出于大会筹备工作以及国家主管部门的监督指导、批复等工作的审慎,致使大会召开时间延迟至2011年1月。特此向广大会员说明。

MCSC's General Assembly & Election Session of Board of Directors would have been held in 2010. The facts that we had to take time to do a plenty of preparation work and get approval of the government authority postponed the General Assembly & Election Session of Board of Directors until January of 2011.

# 许可业务

## Licensing

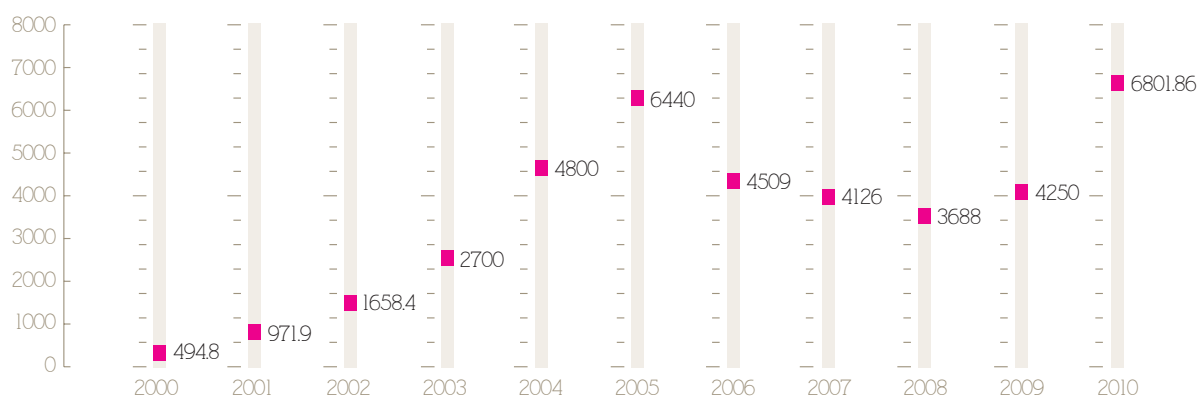
2010年，协会总收益创出历史新高，达到人民币6801.86万元，较2009年增长59.90%。其中收益金额按权利划分如下：

MCSC's revenue of 2010 reached about 6802 million yuan RMB, a new record and an increase of 59.9% over the previous year. The amount was distributed as follows:

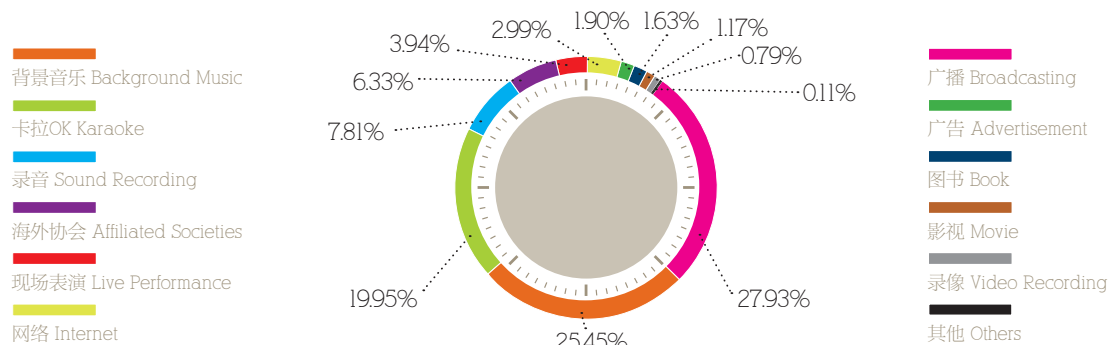
（单位：万元）Unit: 10,000 yuan RMB

表演权（含网络）Performing rights (including Internet income)	3,559.70 （网络收益Internet income: 203.30）
广播权 Broadcasting rights	1,900.00
复制权 Mechanical rights	911.55
海外收益 Oversea income	430.61

2000-2010年许可收入图（单位：万元）  
Diagram of Licensing Revenue from 2000-2010 (Unit: 10,000 yuan RMB)



2010年许可收入来源图  
Statistics of MCSC Licensing Revenue of 2010



# 作品资料

## Documentation

2010年间，协会申请了约1万1千首会员新作品的国际标准音乐作品编码（ISWC编码），使得协会作品获取ISWC 编码总量达到了7万6千余首。

协会继续逐步完善协会作品资料库，目前音乐作品数据库&分配系统（DIVA）中协会管理作品达到20.5万首。

为了配合上海世博局知识产权服务中心发放音乐作品使用许可工作，协会克服了世博会参展国家多，使用音乐类别繁多，参展时间跨度长等复杂情况，集思广益，积极寻找各种渠道和途径，最终及时准确地核查了包括世博会开幕式、日本馆、立陶宛馆、挪威馆、爱沙尼亚馆、台湾馆、捷克馆、爱尔兰馆、法国馆、澳大利亚馆、意大利馆、韩国馆、德国馆、香港馆等海外各大场馆演出以及国内各大参展商的音乐资料，圆满地完成了核查作品的任务，保障了中外音乐著作权人的合法权益。

In 2010, MCSC applied for ISWC codes for about 11,000 new works of our members, and the total number of ISWC codes obtained by MCSC added up to 76,000.

MCSC kept improving the DIVA system. By the end of 2010, music works managed by MCSC through the DIVA system amounted to 205,000.

Different elements, such as too many exhibitors, varied music works, and long time span, complicated the situation, and MCSC coordinated with Shanghai World Expo Business Coordinated Bureau IP Service Center and intensified its efforts to actively brainstorm in seeking out ways to solve rising problems. At last, MCSC had successfully completed assigned tasks of verifying all kinds of music works used in the opening ceremony of the World Expo and by Chinese mainland, Hong Kong, and Taiwan pavilions, and major oversea ones of Japan, Lithuanian, Norway, Estonia, Czech, Ireland, France, Australia, Italy, South Korea, Germany, etc. All MCSC had done effectively safeguard legitimate rights of music copyright owners around the world.

# 版税分配

## Distribution

2010年，协会共进行了6次分配，共计参与分配金额为人民币 3963万元。

其中，复制权分配两次，参与分配金额为 1237万元。

表演权分配两次：参与分配金额为 2071万元。（卡拉OK 1300万元收入，未计入其中）

海外收入分配一次，参与分配金额为448万元。

互联网收入分配一次，参与分配金额为207万元。

MCSC had distributed royalties 6 times for 2010 with amount of 3963 million yuan RMB in total.

Royalties from mechanical right licensing had been distributed twice with amount of 1237 million yuan RMB in total.

Royalties from performing right licensing had been distributed twice with amount of 2071 million yuan RMB in total.

(Royalties amounting to 13 million yuan RMB from Karaoke licensing are not included.)

Oversea income had been distributed one time with amount of 4.48 million yuan RMB in total.

Internet income had been distributed one time with amount of 2.07 million yuan RMB in total.

### 卡拉OK分配情况说明：

卡拉OK分配号为 K081,K082 和 K091,K092, 因为资料处理和分配程序修改的问题，未能记入2010年的分配结果。其中K081, K082已于2011年上半年完成，K091和K092将于2011年下半年完成。2010年的卡拉OK收入，目前还没有和中国音像著作权集体管理协会（音集协）完成结算。

### Explanation on the Distribution of Karaoke Licensing Revenue

The Distributions of Karaoke licensing are K081, K082, K091 and K092 respectively. The distributable amount was not included in the above-statistics because of documentation processing and distribution procedure modification. No. K081 and No. K082 distributions were completed in the first half of 2011. No. K091 and No. K092 distributions were supposed to be finished in the second half of 2011. So far, the Karaoke royalties for 2010 have not been transferred from CAVCA (China Audio-Video Copyright Association) to MCSC.

### 广播权分配说明：

截止到2011年9月底，协会还没有收到应该由中央电视台提供的音乐作品使用清单，无法根据作品使用情况制订出合理的分配规则，并提交理事会通过。最终的广播权分配办法，将由协

# 版税分配

## Distribution

会的分配部门提出合理的建议，由常务理事会通过后进行。关于广播权分配情况的进展，将通过会员短信平台和协会网站向广大会员公示。

### Explanation on Distribution of Broadcasting Licensing Revenue

By late September of 2011, MCSC had not received the List of music works used by CCTV. It was impossible for MCSC to make the reasonable rule of distribution to be approved by the Board of Directors without the list. The rule of distribution of broadcasting royalties would be recommended by MCSC Distribution Department and approved by the Board of Directors. As for the distribution, MCSC would publicize the information by sending text message to its members or on the MCSC's website.

2010年，协会面临的重大任务是2008至2009年的卡拉OK 使用费分配。在下半年得到中国音像著作权集体管理协会（音集协）提供的使用歌单后，根据歌单的情况，协会制定了相应的分配规则，并在协会常务理事会审阅通过。同时协会开始处理这份包含了9万多首歌曲的歌单。在通过电脑配对，手工核查后，向各公司和海外协会发出了《未识别作品清单》，严格按照成熟协会的操作流程处理此次分配。在经过各种途径返回结果和核查后，此次分配的作品配对率达到了90%。

同时，协会分配部还对整个分配系统进行了梳理。结合协会的操作模式，提出了具体的分配方法和流程，使得计算机系统能更方便地完成目前的工作；根据实际工作的需要，调整了报表的形式，使会员能更清晰地了解分配的情况；改善了分配查询的方法，使得会员能更方便地查询自己的分配金额，并随时可以打印分配明细表；配合协会财务部，利用计算机系统完成银行所需要的各种表格，减少手工录入的工作量，提高工作效率，减少出现错误的几率。

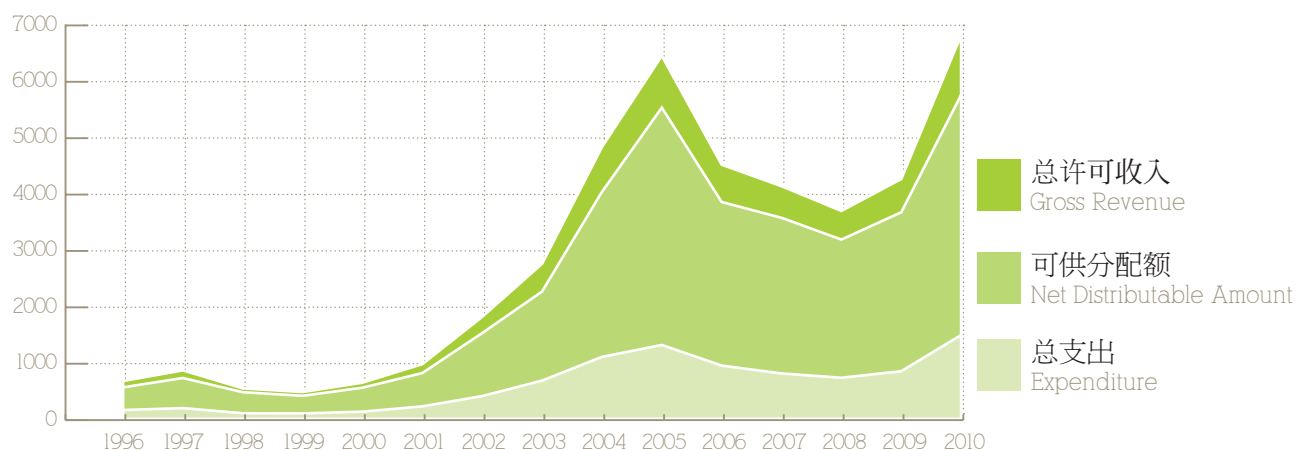
MCSC's most important task in 2010 was the distribution of both 2008 and 2009 royalties from Karaoke licensing. Based on the list of music works provided by CAVCA, we worked out the distribution rule, which was then passed through by our Board of Directors. At the same time, MCSC began to deal with the list of more than 90,000 music works, complying with requirements of mature operational procedures through computer matching, manual verification and delivery of List of Unidentified Music Works to publishers and oversea societies. The proportion of identified music works reached 90%.

Meanwhile, MCSC's Distribution Department improved its overall distribution system. With MCSC's existing operation mode, we put forward more detailed distribution methods and procedures, and facilitated computer to complete current work. In order to meet actual needs, we adjusted the

# 版税分配

## Distribution

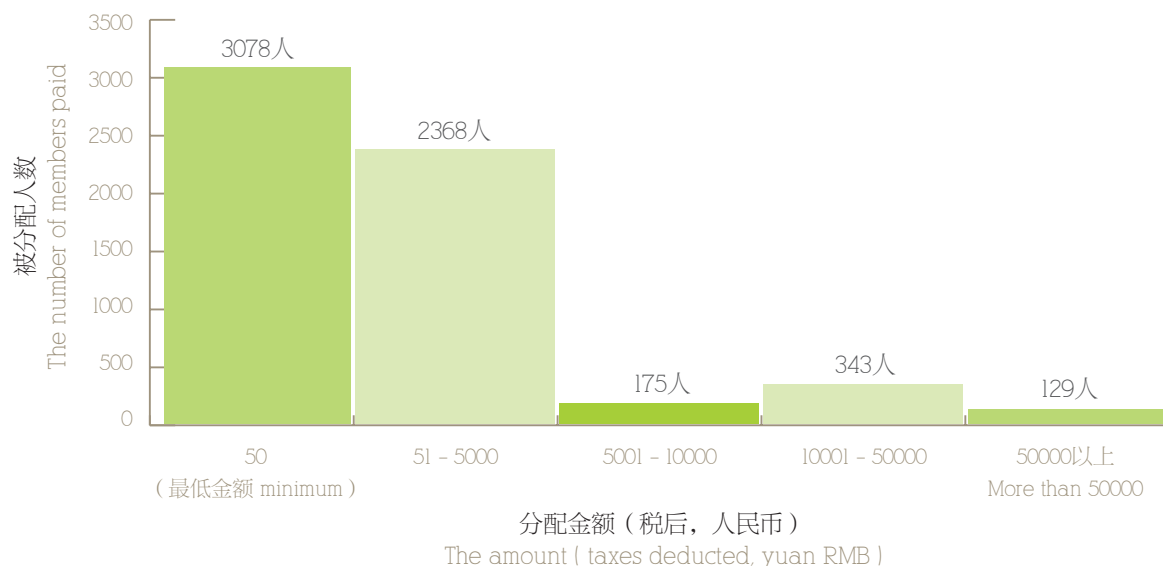
format of distribution statement to help our members get a better understanding of the progress of distribution. With the improved inquiry system, our members find it more convenient to inquire about their profits distributed and print out detailed accounts at any time they want. MCSC Distribution Department cooperated with Financial Department and took advantage of computer system to finish a variety of forms required by banks. As a result, amount of manual work was reduced and working efficiency improved with less errors.



1996-2010年总收入、可供分配金额及总支出对比图 (单位: 万元)  
Annual Gross Revenue, Net Distributable Amount and Expenditure 1996-2010 (Unit 10,000 yuan RMB)

为保证协会分配的透明度并兼顾会员分配隐私, 协会对部分分配信息公示如下:

To guarantee both transparency of distribution and privacy of our members, MCSC publicize the distribution information as follows:



# 法律事务

## Legal Work

2010年,协会共办理民事诉讼案件40件,其中总部承办17件,指导外地律所代理的诉讼23件,通过诉讼等方式共索赔和追回著作权使用费(已到帐)达人民币1629185.70元,待执行款125191.50元,诉讼花费总支出为228887.90元,继续保持了较高的诉讼效率。

今年比较成功的典型案件有:协会针对“百度网”侵权上载、传播会员作品(歌词)牟利提起诉讼一案,历经两级法院审理,终以胜诉落幕,开创了音乐行业权利人在面对“百度”的维权诉讼中获胜的先例;针对TCL集团的某款侵权网络电视机展开了百万标的的诉讼,受到了多家平面及电视媒体的关注报道,对协会复制权业务的开展起到了有力的舆论支撑和推动作用;在各地地方,指导或派员参与了多起协会针对商家侵权播放背景音乐的诉讼,其中深圳新一佳超市被判赔数额高达单曲万元,引起了业界、媒体以及广大公众的高度关注,为协会的地方维权工作创造出浓厚的环境氛围;同时,继续对拒不付费的DVD点歌机厂家、音像出版社以及一系列演唱会进行了维权诉讼,均取得了比较令人满意的结果。

MCSC brought 40 civil law cases to courts in 2010, which consists of 17 brought by MCSC's headquarter, and 23 by local offices. MCSC had been compensated for losses by 1,629,185 yuan RMB (already enforced) in total, apart from 125,191.5 yuan RMB yet to be enforced. Lawsuit cost MCSC 228,887.9 yuan RMB and MCSC remained high lawsuit efficiency.

Following are typical cases MCSC won this year:

Baidu gained profits by illegally uploading lyrics created by our members and MCSC sued Baidu for infringement of copyrights. MCSC set the first and good example by winning the legal case against Baidu in protecting music owners' copyrights after the second instances.

TCL Group manufactured a certain kind of Web TV and MCSC claimed more than 1 million yuan RMB compensation by a lawsuit against TCL Group for the infringement of music copyright. This lawsuit drew great attention of many printed media, TV Media and pushed forward our mechanical right licensing

At the local level, MCSC headquarter directed or assigned staffs to sue against companies which illegally used background music. For instance, Xin Yi Jia, a super market, had to pay indemnity of 10,000 yuan RMB for each music work. The music industry, media, and public paid great attention to this issue, creating a favorable environment of local music copyright protection. We sued DVD manufacturing companies, audio & video publishers, and organizers of live concerts that refused to pay royalties, and achieved satisfactory accomplishments.



# 海外新签约协会

New Oversea Signatory Society

2010年，协会与哥伦比亚音乐著作权协会签署了关于表演权及复制权的相互代表协议。至此，协会与几乎所有拉丁美洲及南美洲国家和地域的同类组织建立了音乐著作权相互代表关系。

Ever since it signed reciprocal representation contracts for performing & mechanical rights with SAYCO of Columbia territory in 2010, MCSC had established reciprocal representation relationships with almost every music copyright society from Latin and South American countries and regions.

# 年度记事

## Key Events

### 2月 February

2010年新春伊始，北京市海淀区法院宣判协会起诉百度公司音乐歌词搜索侵权一案，百度公司首次承受了败诉的结果。根据法院判决，百度公司应停止在其经营的“百度网”以所谓“网页快照”形式提供涉案50首歌曲的歌词内容，并赔偿协会著作权使用费人民币5万元和1万余元的诉讼支出，这是多年来第一次音乐著作权人在针对百度公司的诉讼中获胜。

Right after the Spring Festival of 2010, the Beijing Haidian Court made the decision on the case of MCSC v Baidu and Baidu lost the lawsuit for the first time. Baidu was asked to stop taking the form of so-called snapshot to provide with lyrics of more than 50 songs involving the case and pay indemnity of 50,000 yuan RMB and 10,000 yuan RMB lawsuit costs. It is the first time for music copyright owners to win the case against Baidu.

### 3月 March

北京时间2011年3月11日下午，日本东北近海发生里氏9级强烈地震及引发海啸，造成巨大财产损失和人员伤亡。协会上下对这次特大自然灾害给日本人民造成的创伤深表同情，并及时向日本音乐著作权协会（JASRAC）了解情况、致以慰问。

In the afternoon of March 11, an earthquake measuring 9 magnitudes on the Richter scale hit Japan's eastern coast and triggered tsunamis, resulting in great financial losses and heavy casualties. This was a great shock to every staff from MCSC. We extended our deep sympathy to our sister society - JASRAC as soon as we could.

3月31日，上海世博会事务协调局发布《关于办理音乐作品著作权使用许可的规定》，明确表示上海世博会上的各类参展者、园区内演出组织者、园区商业经营单位等音乐作品使用者在上海世博会举办期间、在世博会园区内以表演方式使用他人受法律保护的音乐作品，且该表演不向观众另行收取费用的，应按本规定办理许可手续。该规定包括许可的适用对象，许可的形式、内容和效力，办理许可的一般程序，特别程序，音乐著作权许可使用收费标准，现场核查，法律责任等内容。

On March 31, Shanghai World Expo Business Coordinated Bureau issued Regulation on Applying for music copyright licenses. All music users, such as exhibitors, performers and trade companies in the park, should comply with the requirements of the regulation to apply for licenses if they perform music works protected by laws for copyright owners' interests without collecting any fee from audience. The regulation specified parties to apply for licenses, licensing forms, contents, and effects, common and special procedures, licensing standard fee, on-site inspecting, legal obligations, etc.

# 年度记事

## Key Events

### 4月 April

4月1日，中国作协七届九次主席团会、七届五次全委会在重庆召开。协会会员、中国作家协会副主席叶辛在会议上提出文学作品维权应向音乐版权保护学习，“我们真的应该向音乐版权保护学习，我至今都会从中国音乐著作权协会收到《蹉跎岁月》主题曲的版权使用费。”

The 9<sup>th</sup> plenary session of the 7<sup>th</sup> Chairman Presidium Meeting and the 5<sup>th</sup> plenary session of 7<sup>th</sup> Executive Committee of China Writers Association (CWA) were held in Chongqing on April 1. Mr. Ye Xin, the Vice President of CWA and the member of MCSC, said “As members of CWA, we should learn how to protect literary copyrights from MCSC. I keep receiving royalties from MCSC on the song created by myself for *Cuo Tuo Sui Yu* (a TV drama program).”

4月14日，浙江省温州市鹿城区人民法院公开审理了温州首起背景音乐侵权案。协会要求浙江红蜻蜓鞋业股份有限公司温州市五马一店、浙江红蜻蜓鞋业股份有限公司立即停止公开播放歌曲《梦里水乡》，并赔偿两万元。协会在浙江频频“开枪”，意味着对省内商家的背景音乐使用费的追索已经进入了全面开花的阶段。如果商家在播放背景音乐时，没有与协会事先达成使用许可，都有可能面临法律风险。

On April 14, Lucheng People's Court of Wenzhou in Zhejiang Province conducted the trial in public for the first case concerning infringement of background music copyrights in Wenzhou. As for the case, MCSC called for immediately stopping playing the music work, *Meng Li Shui Xiang*, in public and claimed 20,000 yuan RMB compensation. MCSC's action to fight against illegal music users purported that background music copyright licensing started in full swing in Zhejiang Province. All companies would be exposed to legal risks if they play background music without getting licenses issued by MCSC in advance.

4月15日，以“创新与知识产权让世博会更精彩”为主题的2010年上海知识产权宣传周举行开幕仪式。上海市人民政府、市知识产权局、上海世博局等相关领导出席了本次活动。鉴于上海世博局在2009年4月和协会签订了合作备忘录，通过与协会的合作，可以为参展者办理音乐著作权使用许可手续提供便利。此次宣传周活动在上海世博会即将开幕之际举行，无疑对协会在世博上的授权许可工作起到了很好的宣传作用。同时，协会已派员入驻刚刚挂牌的参展者知识产权服务中心，为世博会的各参展者、参与者提供办理合法使用音乐作品的绿色通道。

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On April 15, the opening ceremony of IP Propaganda Week, featured with the theme---“innovation and IP making the World Expo 2010 more wonderful”, was held. Officials of Shanghai Municipal Government, Shanghai IP Bureau, and Shanghai World Expo Business Coordinated Bureau were present for the event. Shanghai World Expo Business Coordinated Bureau signed a memorandum with MCSC for music copyright licensing in April 2009, and both sides cooperated with each other on music copyright licensing. The Propaganda Week, no doubt, played a vital role in publicizing MCSC's music copyright licensing as it was held right before the opening ceremony of Shanghai World Expo.

Meantime, MCSC sent its staff to work for IP Service Center newly established, providing exhibitors and participators with an access to music copyright licenses.

2010年4月14日7时49分许，青海玉树发生7.1级地震。为了向抗震救灾贡献一份力量，协会向地震灾区捐款5万元。同时，4月20日，为响应国家新闻出版总署向青海省玉树地区地震灾区捐赠活动的号召，协会总部40余名工作人员自发向地震灾区人民捐款4270元。希望我们的微薄之力，可以让灾区人民感受到中国音乐著作权协会的一份心意，感受到在家园重建、与灾难顽强斗争的过程中，他们并不孤单。

At 7:49, April 14 of 2010, a devastating earthquake measuring 7.1 magnitudes on the Richter Scale hit Yu Shu County, Qinghai Province. MCSC devoted 50,000 yuan RMB to help people in the stricken area. At the same time, more than 40 staffs were active to the activity organized by General Administration of Press and Publication through spontaneously contributing 4,270 yuan RMB to the earthquake-stricken areas. We sincerely hope our efforts convey warmth to people in the affected area, letting them know they are not alone as they struggled with the disasters and rebuilt their homeland.

4月26日，迎世博系列活动之“保护音乐合法使用表彰会”暨“4.26世界知识产权日”宣传活动在上海举行。在表彰会上，协会总干事屈景明介绍了上海市音乐版权保护的情况并宣读了《关于表彰保护音乐合法使用示范单位通报》。上海市版权局版权产业促进处处长武幼章呼吁社会各界支持和保护音乐合法使用，为平安迎世博创造良好的社会氛围。保护音乐合法使用示范单位东方商厦及家乐福分别代表获奖单位在会上呼吁：“在经营活动中所有使用音乐的商家，都要尊重音乐创作者的劳动成果，合法地使用音乐。只有充分去尊重别人，我们才能得到客户的尊重和支持。2010年世博会首次在上海召开，作为东道主更有责任去为打造良好的上海版权保护环境做出我们应有的贡献。”

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On April 26, Commending Meeting on Legal Use of Music & 426 World IP Day, which was one of the series of propaganda activities for the World Expo, was held in Shanghai. At the meeting, Mr. Qu Jingming, Director General of MCSC, introduce the progress of music copyright protection in Shanghai, and declared *Announcement of Model Units in Protecting Legal Use of Music*. Mr. Wu Youzhang, Division Chief of Copyright Promotion Department of Shanghai Copyright Bureau, called on whole society to support and protect music copyrights and create an ideal environment for Shanghai World Expo. Representatives of Orient Shopping Center and Carrefour, which were graded as model, argued “All trade companies should protect IP rights by legally using music works created by authors and composers. We would get supports and respect of our customers only when we show our respect for others in return. 2010 World Expo will be held in Shanghai for the first time, and we feel obliged to make contribution to protect copyrights in a more effective way in Shanghai as hosts.”

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“五一”前，协会接到日本国际协力机构驻中华人民共和国事务所咨询，称想拍摄一部旨在为鼓励日本人民战胜自然灾害，重建家园的动画DV，其中使用了我会管理的作品《生死不离》，希望协会协助解决音乐版权问题。随后，我会积极与《生死不离》曲作者舒楠先生联系。舒楠先生了解详情后，随即表示同意，并请协会转达对日本国际协力机构和日本人民的慰问。为此，日本国际协力机构驻中华人民共和国事务所特致函协会，对协会及会员舒楠先生的大力支持表示衷心感谢。

Before Labor Day, MCSC was consulted by Chinese Affairs Consulting Firm of Japan International Cooperation Agency as to music copyright licensing to a music work --- *Sheng Si Bu Li*, which was supposed to be used in a cartoon DV in order to encourage Japanese to overcome problems arising from natural disasters and rebuild their homeland. MCSC lost no time to contact with Mr. Shu Nan, the composer of the music work, then he immediately agreed on the request once he knew it and asked MCSC to send his condolence to Japanese people. Chinese Affairs Consulting Firm of Japan International Cooperation Agency specially wrote to MCSC, expressing its heartfelt thankfulness for the strong support provided by MCSC and Mr. Shu Nan.

**7月** 继2010年2月协会诉百度公司胜诉后，百度公司提出上诉。7月，北京市第一中级人民法院做出维持原判的二审判决。据悉，多年来各类音乐行业的著作权人指控百度公司MP3模式侵权的诉讼由于种种原因一直未获得胜诉成果，本案两审判决终于开创了音乐行业权利人在面对“百度”的维权诉讼中获胜的先例，相信此案的司法实践对于中国互联网环境下的音乐正版化进程有着重要的现实意义。

**July**

Following MCSC's success in the case against BAIDU in February of 2010, BAIDU filed an appeal. In July, the appellate court affirmed the decision of the lower court. Until this case, none of copyright owners won the case against BAIDU for MP3 copyright infringement in lawsuit for different reasons. As for the case of MCSC v. BAIDU, the appellate courts' decision created a precedent of winning the case against BAIDU in protecting music copyrights in music industry. It is expected that the judicial decision of the case plays a practically vital role in the course of protecting music copyrights in Internet environment.

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8月  
August

2010年8月8日发生在甘肃省甘南藏族自治州舟曲县的特大山洪泥石流灾害，造成严重人员伤亡和经济损失。一方有难、八方支援，灾区人民的生命财产安全牵动着我们每一位同胞的心。为帮助灾区人民早日度过难关，重建家园，响应国家新闻出版总署转达中央国家机关工委和中央直属机关工委联合下发捐助通知的精神，协会向灾区捐款1万元。并且，协会动员各部门工作人员奉献爱心，开展向灾区的捐款活动。此次捐款活动表达了协会回报社会的真情以及对灾区人民的关心之情。

Zhouqu County is located in Gansu Province in northwestern China. At midnight on August 8<sup>th</sup>, 2010, torrential rain triggered a landslide which rapidly turned into an unstoppable wall of mud, destroying everything in its way. The natural disaster caused heavy casualties and huge economic losses. As a Chinese saying goes, “when disaster struck, help came from all sides”. Our hearts are closely linking with security of people and property in the stricken area. Responding to the spirit passed by General Administration of Press and Publication and jointly advocated by State Organs Work Committee of the CPC and Work Committee for offices directly under CCCPC, MCSC donated 10,000 yuan RMB to the stricken area. In addition, MCSC motivated its staffs to donate as a token of love. The activity of donation demonstrated MCSC's spirit of giving back to the society and being concerned to people in the disaster-stricken areas.



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9月

September

2010年1月1日，《广播电台电视台播放录音制品支付报酬暂行办法》正式实施，协会广播权许可业务进入到实质操作阶段。9月21日，中国中央电视台（央视）与协会就音乐付酬签约仪式在京隆重举行。国家广播电影电视总局、国家新闻出版总署（国家版权局）、央视、协会相关领导和有关人士出席了此次签约仪式。双方此次成功合作一同开启了中国广播组织音乐付酬的历史元年；双方借助音乐著作权集体管理组织专业水平与实践经验的优势，共同打造的合作模式在涵盖《付酬办法》所规定的音乐作品的法定许可范畴的基础上，最大限度地从根本上为央视解决了大量使用中外音乐作品逐一获取授权的难题；对于加速全社会版权保护环境的进一步改善，建立我国音乐著作权付酬社会管理机制，全面推进我国知识产权保护工作，维护我国知识产权保护的国家形象，加强与国际社会的音乐著作权保护合作，具有里程碑意义。

With formal implementation of *Interim Measures on Payment for Broadcasting Musical Recordings by Radio and Television Stations* on January 1, 2010, MCSC broadcasting licensing was in an operational stage. On September 21, China Central Television (CCTV) and MCSC jointly held the signing ceremony on music copyright licensing in Beijing. Officials from the State Administration of Radio, Film and Television (SARFT), the General Administration of Press and Publication of China (GAPP) and CCTV, MCSC leaders and other persons concerned attended the ceremony. The

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successful cooperation between the two sides has started the first year in which broadcasting organizations have to pay royalties in China. Depending on the technical superiorities and practical experience of the music collective management organization, both sides had almost resolved all problems imposed upon CCTV, arising from CCTV's extensive use of music works, based on the cooperation pattern both sides created and the regulation of the *Interim Measures*. The *Interim Measures* promulgated and implemented is a milestone, accelerating the process of protecting copyrights throughout the country, setting up a social management mechanism of licensing for music copyrights, promoting the development of IP right protection, maintaining national image in protecting IP rights, and strengthen international cooperation on protection of music copyrights.

### 10月 October

10月20日至21日，在国际作者和作曲者协会联合会（CISAC）亚太委员会会议上，协会总干事屈景明当选为该委员会副主席。该委员会主席由澳大利亚音乐著作权协会（APRA）代表当选，另一副主席由日本音乐著作权协会（JASRAC）代表当选。与海外同类组织相比，协会目前规模仍很小。然而，总干事屈景明的当选从一方面反映了协会近几年的工作得到了国际社会的基本认可，同时也反映了国际社会对中国包括音乐著作权在内的著作权整体保护水平的提高有更高的期待。

At the meeting of Asia-Pacific Committee of International Confederation of Societies of Authors and Composers (CISAC) held from October 20 to 21, Mr. Qu Jingming, MCSC's Director General, was elected as the Vice Chairman of the Committee. The Chairman elected is from the Australasian Performing Right Association (APRA) and the other Vice Chairman elected is from Japanese Society for Rights of Authors, Composers and Publishers (JASRAC). Compared with its foreign counterparts, MCSC is currently still very small-sized. However, the election of Mr. Qu Jingming proves that MCSC's years efforts have been recognized by the international community and the international community has had a higher expectation for overall improvement of copyrights, including music copyrights in China.

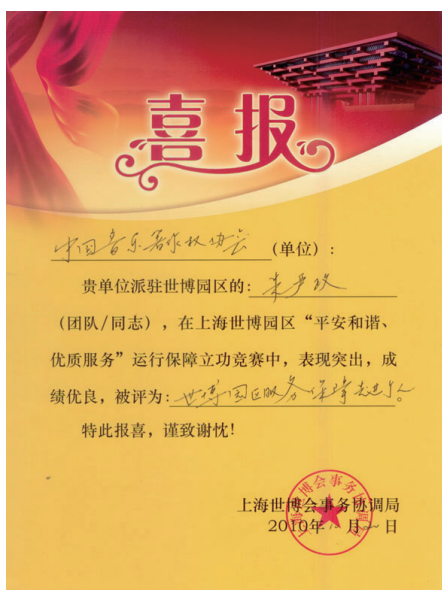
同月，中国2010年上海世界博览会组织委员会、执行委员会向协会颁发“上海世博会荣誉证书”，表彰协会为举办成功、精彩、难忘的中国2010年上海世界博览会做出积极贡献！同时还颁发荣誉纪念牌以做留念！并且，协会派驻上海世博局的协会表演权业务部副主任朱严政也因其在上海世博园区举办的“平安和谐、优质服务”运行保障立功竞赛中表现突出，成绩优良，被评为世博园区服务保障先进个人。

In the same month, MCSC was granted a commemorative certificate and badge by 2010 Shanghai World Expo Organizing Committee and Executive Committee for its outstanding contribution to the

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success of both wonderful and memorable Shanghai World Expo. In the campaign for better qualities of operation, maintenance and service with the theme of *peaceful harmony and optimal service* in the Expo park, Mr. Zhu Yanzheng, Deputy Director of Performing Rights Licensing Dept, had accomplished remarkable achievements with excellent performance as a MCSC's representative sent to work for Shanghai World Expo Business Coordinated Bureau, and had been honored as outstanding individual



## 12月 December

深圳新一佳超市因侵权播放背景音乐引发诉讼，一审被判决赔偿协会单曲高达万元，并被判承担全部诉讼费用。本案宣判后，协会负责人表示，这一判决结果对于向社会公众进一步普及著作权保护知识有着重要的现实意义。希望通过本案诉讼，一方面提示广大背景音乐使用者要自觉守法经营，尊重他人的智力劳动和著作权利；另一方面籍此加大音乐版权保护的宣传力度，促进公众提高版权保护法律意识，努力构建和谐社会不可或缺的法制环境。

MCSC filed a sue against Xin Yi Jia, a supermarket in Shenzhen, for its tortious action to music copyrights. The court made the decision in the first instance, asking that Xin Yi Jia should pay over 10,000 yuan RMB for the use of each music work. "The decision the court made plays a significant role in popularizing the copyright protection throughout the country," one of MCSC officer expressed, "With the decision, we hope to promote the majority of background music users to comply with relevant laws and regulations to run their businesses and respect others' IP rights, and at the same time, this case is supposed to strengthen protection of music copyrights and raise awareness of IP right protection in public, aiming at establish a legal system critical to harmonious society."

# 特别报道

## 2010年上海世界博览会工作报告

### Special Report

Work report of the 2010 Shanghai World Expo

2010年上海世博会举世瞩目，展会期间共有200多个展馆的展览、两万余场的演出，规模空前。由于世博会期间以播放背景音乐、演唱会、演奏会形式使用音乐作品的情况非常普遍，且音乐使用范围遍及全球，因此受到了全世界音乐著作权人的极大关注。为了做好上海世博会音乐著作权保护工作，以切实有效的措施保障世界范围著作权人的合法权益，中国音乐著作权协会（下称“音著协”）未雨绸缪，早在2007年便开始与上海世博会的组织者——上海世博会事务协调局（下称“世博局”）进行接触。之后经过与世博局的反复磋商，双方达成了相互支持共同协作的音乐著作权保护方案，并于2009年4月24日签署《合作备忘录》。2010年1月音著协正式从北京派员常驻上海世博会，协调落实音乐著作权保护方案。音著协与世博局的合作模式在世博会历史上是第一次。

As an unprecedented-scale event, at which there are numerous exhibitions in more than 200 pavilions and 20,000 performances, the 2010 Shanghai World Expo attracted worldwide attention. During the period of the World Expo, a variety of music works, including foreign ones, were extensively used as background music or in concert and thus music copyright owners all round the world kept close watch on the event. On the purpose of protecting the music copyrights and represent the best interests of all music copyright owners in a more effective way, MCSC took precaution to contact with the organizer of the Shanghai World Expo ---- the Shanghai World Expo Business Coordinated Bureau (the Bureau) as early as 2007. After negotiations with the Bureau, both sides had worked out a plan on mutual support and cooperation to protect music copyrights. On April 24, 2009, both sides signed Cooperation Memorandum. In January of 2010, MCSC formally sent its representative from Beijing to work for the Bureau, implementing the plan in an all round way. This is the first cooperation pattern between MCSC and the Bureau in the history of the World Expo.

### 一．合作模式

双方的合作模式可简单概括为：音著协发许可，世博局给支持，相关主体付费。与先前的奥运模式相比，这一合作模式体现出明显的合作深度、紧密度及更加丰富的内容。

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## 2010年上海世界博览会工作报告

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#### 1. 音著协方面做的主要工作如下：

(1) 设计出适合上海世博会的音乐作品表演权收费标准。该标准是音著协充分了解世博会场馆、文艺演出等的特点，并听取世博局方面的意见后，在现行标准的基础上制订的。

(2) 参与制订以世博局名义发布的参展规范性质的文件——《关于办理音乐著作权许可的规定》，使许可收费方案真正可操作。

(3) 派员赴上海，在世博局的支持下协调各方开展工作，向付费的参展者颁发音乐著作权使用许可证。

#### 2. 世博局给予的具体支持如下：

(1) 在参展文件中规定需要办理音乐著作权许可并付费的内容。早在2007年底世博局即在《参展指南》中指出参展者应在参展前向音著协办理使用音乐作品的著作权许可、向组织者作已另行获得相关授权的备案。2010年4月初，世博局将参展规范文件《关于办理音乐著作权许可的规定》正式发布，在上海世博会官网中均可查询到相关内容。

(2) 世博局在法务部下专门设立“参展者知识产权服务中心”处理与参展者有关的知识产权内容，其中音乐著作权许可办理工作是该中心的重要工作内容之一。该中心在参展者服务大厅内进行窗口办公，由音著协派员主持日常工作，并辅以世博局法务部的两名工作人员，以及上海各高校的15名知识产权专业的硕士在读研究生。

(3) 世博局相关部门给予配合。包括协助发放相关文件、通知等资料；提供联系方式，供知识产权服务中心工作人员与各参展者、商业单位进行工作对接；协助组织相应的宣传介绍会议，让参展者、商业单位了解音乐著作权办理内容；协调各参展方、商业单位办理音乐著作权许可等。

3. 音乐使用者：包括组织者、各类参展者、其他参与者（主要为文艺演出团体、餐饮零售等商业单位），以上使用者均需根据各自音乐使用情况承担自己应付的著作权许可使用费。

### Cooperation Pattern

The cooperation pattern can be simply summarized as follows: Firstly MCSC issues licenses; secondly the Bureau gives supports; thirdly music users concerned pay royalties. Compared with the previous

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## 2010年上海世界博览会工作报告

### Special Report

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cooperation pattern for Olympic Games, this pattern is meant to be further close cooperation in a more practical way.

1. The main responsibilities of MCSC as follows:

- (1) Design standard fee for music performing licensing, appropriate to the World Expo. Based on the prevailing standard, MCSC should take all information on pavilions and characteristics of art performances into consideration under the guide of the Bureau to work out the above mentioned standard.
- (2) Assist to formulating regulatory document - *Regulations on Music Copyright Licensing*, which is to be promulgated in the name of the Bureau, making the licensing feasible to implement.
- (3) Send staff to carry out relevant licensing work in Shanghai and issue licenses to exhibitors who use music works, with the support of the Bureau.

2. The supports offered by the Expo Bureau are as follows:

- (1) Regulate music copyright licensing and standard fee. In late 2007 as early, the Bureau state in *Exhibition Guideline* that exhibitors shall get music copyright licenses from MCSC prior to their exhibitions, or make registration at the Bureau if get music copyright licenses from others separately. In early April, 2010, *Regulations on Music Copyright Licensing* was formally promulgated by the Bureau and it was available on the official website of the World Expo.
  - (2) The Bureau specially set up IP Service Center for Exhibitor ( "Center" ) under the Legal Department to deal with affairs involved in IP. Music copyright licensing is one of most important work for the Center. The office of the Center was in the Exhibitor Service Hall where the staff sent by MCSC was responsible for daily affairs relating to music copyrights with supports from two staffs of Legal Department of the Bureau and 15 candidates for master degree of IP.
  - (3) Relevant departments of the Bureau provide supports, including assisting to issue relevant documents and notices, providing contact information to facilitate communication between staffs of the Center and exhibitors, assisting to organize propaganda meeting to let exhibitors know about music copyright licensing, and coordinating licensing.
3. Music users are organizers, exhibitors, and other participants (mainly consists of the art performance groups, restaurants and retailers). All users shall pay licensing fee based on their own situation.

## 二．许可收费情况

### 1. 概况

截至2010年12月31日，音著协在上海世博会上共向组织者、参展者、其他参与者（含商业

# 特别报道

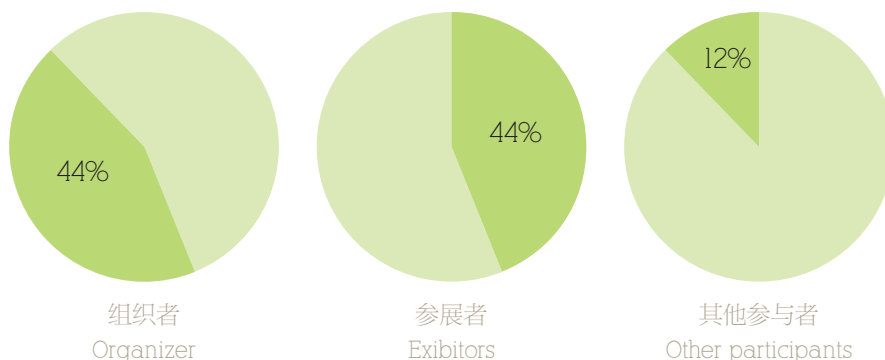
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单位、演出团体)发放音乐作品著作权许可93份,进行音乐著作权备案68份,共涉及78个参展者,约占参展者总数(约260个,含国家、国际组织、城市、省区市、企业等参展者)的30%。

收取著作权使用费情况  
Ratios of Royalties from Different Payers



### 2. 备案

有些参展者书面声明其全部或某项使用音乐作品的情况已经获得了著作权人的许可或者不需要另外获得许可。其中,参展者有50个,含国家展馆27个、城市案例馆1个、企业馆15个、省区市展馆7个。此外,其他参与者(都是演出团体)有9个。以下是声明其不使用音乐作品或使用的全部音乐作品均已另行获得许可的国家展馆:

主体类别	所属国家/地区
1	法国馆
2	以色列馆*
3	爱尔兰馆
4	阿尔及利亚馆*
5	秘鲁馆*
6	列支敦士顿馆*
7	阿富汗馆*
8	沙特馆*
9	波兰馆*
10	美国馆
11	克罗地亚馆
12	瑞典馆
13	波黑馆*
14	台湾馆
15	新加坡馆

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#### The collection of royalties

##### 1 Overview

As of December 31, 2010, MCSC had issued 93 music copyright licenses and put 68 users on record, involving 78 exhibitors, 30% of total number (there are about 260 exhibitors in total, including national, international, provincial, municipal, and enterprise exhibitors).

##### 2 Registration

Some exhibitors claimed in written form that they had already obtained all or partial music copyrights from copyright owners and had been entitled to use the music works free from licensing otherwise. Among them, there are 27 national pavilions, 1 city pavilion, 15 enterprise pavilions, and 7 provincial and municipal pavilions, with 50 exhibitors in total.

The following is list of national pavilions which claimed that they would not use musical works or had authorization from others:

No.	Country / Region
1	France Pavilion
2	Israel Pavilion
3	Ireland Pavilion
4	Algeria Pavilion
5	Peru Pavilion
6	Liechtenstein Pavilion
7	Afghanistan Pavilion
8	Saudi Arabia Pavilion
9	Poland Pavilion
10	USA Pavilion
11	Croatia Pavilion
12	Sweden Pavilion
13	Bosnia and Herzegovina Pavilion
14	Taiwan Pavilion
15	Singapore Pavilion

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### 三. 主要困难和解决办法

1. 多数国家参展者对著作权集体管理的国际化特点及在中国的情况缺乏必要了解。具体表现为, 部分参展者(多数来自欧洲)对本国的著作权集体管理组织有所了解, 以至于均以向本国著作权集体管理组织申请许可为由进行推托, 如意大利、丹麦、挪威、西班牙、新加坡、日本等。与这些参展者沟通时往往需要反复多次, 耗时2-3月, 因为这些参展者需要多次与国内进行联系确认。针对这一情况, 音著协在2010年6月初即协调各兄弟协会以敦促函的形式确认音著协的管理权利, 同时给各参展者以紧迫感。

2. 少部分国家的参展者以工作人员变动频繁、主要负责人不易联络等理由拖延不办, 如韩国、俄罗斯等国, 背后反映出的是对著作权保护的不重视。

3. 规则制定上, 对不进行著作权许可申请或备案的参展者, 缺少程序上的制约。如在文艺演出前的内容申报、文化审批、合同签订、场地安排、人员组织等一系列环节中, 完全没有事先获得音乐著作权许可的内容设计。对此, 在与世博局相关部门加强沟通的基础上, 音著协力争在规则上加以完善, 并通过相关部门获得参展者、其他参与者的联系方式, 加强直接联络和沟通, 对重点对象开展上门服务。

4. 由于世博会的特殊性, 对拒不获得许可的音乐使用者, 音著协很难像对待一般侵权者那样采取诉讼等法律措施给予打击。

### The main problems and solutions

1 Most exhibitors did not know much about international characteristics of copyright collective management organization and situation in China at all. For example, some exhibitors (almost from European countries) from Italy, Denmark, Norway, Spain, Singapore, Japan, etc. took excuses of obtaining licenses directly from the copyright collective management organizations in their own countries to withhold royalties from MCSC.

MCSC usually had to spend 2-3 months on contacting and negotiating with them several times as much as these exhibitors had to contact persons concerned to confirm in their countries. In early June, 2010, MCSC turned to oversea sister societies to ask for confirmation letters of MCSCs authorization while it urged exhibitors to cooperate.

2 A few of exhibitors from South Korea, Russia, etc. refused to pay royalties on the excuse of personnel change with increasing frequency and no convenient access to the person in charge. This reflected that they were not concerned to copyright protection.

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- 3 As for rule making, there was a procedural lack of restraint on exhibitors who refused to apply for copyright licenses and register. There did not exist the rules of music copyright licensing at all in all facets, including using declaration, cultural approval, contract signing, venue arrangement, personnel assignment, etc. To cope with the problems, MCSC made great efforts to push forward making and improving rules by exchanging ideas and information with the Bureau, and to get in touch with exhibitors to strengthen exchange and offer services to doorstep for some key exhibitors.
- 4 Taking the uniqueness of the Expo into consideration, it was literally impossible for MCSC to claim licensing fee from some tortious exhibitors by taking legal measures MCSC often resort to against common tortious persons.

#### 四．意义和作用

1. 切实维护了国内外音乐著作权人的合法权益。上海世博会音乐著作权保护的工作过程及最后成果已经表明，音著协为维护海内外音乐著作权人的合法权益做了大量艰苦的工作，多数兄弟协会管理的音乐作品得到了有效的保护，成果显著。

2. 对著作权保护、著作权集体管理和音著协起到了积极的宣传作用。许可收费的过程，就是一个不断宣传的过程。在与各参展者的沟通之中，以公函、面谈、座谈会、工作例会等不同形式介绍了音乐著作权集体管理在中国的发展情况及在国际合作方面的重要作用，以规范的操作让各参展者感受到著作权保护的重要性、音著协的专业性。此外，以世博为依托的著作权保护宣传工作，无疑也凸显了音著协的产业地位，为音著协的名片增添了重要的亮色。

3. 为在大型活动中开展著作权保护进行了有益的探索，提供了一种新的模式。在这一模式下，音著协和世博局在平台、渠道、人员、宣传等多方面开展了实质性的深度合作，基本实现了维护著作权人合法权益的目标。通过双方合作，一方面全面化解了世博会音乐著作权方面的法律风险，一方面有力地树立了音著协专业权威的维权形象。这一著作权保护的强强合作模式有一定的推广价值。

#### Significance and role of our licensing work

- 1 MCSC practically safeguard legitimate interests of oversea and domestic music copyrights owners. Accomplishments of music copyright protection were the evidence of MCSC's persistent efforts to safeguard legitimate interests of oversea and domestic music copyrights owners. Copyrights of most music works authorized by MCSC's oversea sister societies were effectively protected and outstanding achievements were fulfilled.

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- 2 MCSC played an active role in publicizing copyright protection, copyright collective management and MCSC in public. A licensing process is meant to a popularizing process. MCSC introduced the information about the music copyright collective management's development and its key role of international cooperation to exhibitors in the forms of official letters, interview, seminars and regular meetings. Meanwhile, MCSC's norm operation successfully convinced exhibitors of the importance of copyrights and high specialty of MCSC. In addition, MCSC's vital roles in cultural industry were undoubtedly highlighted and its image was much improved when it devoted to publicize music copyright protection in the World Expo.
- 3 MCSC explored the possibility of copyright protection in a large-scale activity and provided with a new model to protect copyrights. In this model, MCSC and the Bureau carried out further cooperation relating to platform, channel, personnel, propaganda, etc, and both sides basically realized objective of safeguarding legitimate rights of copyrights owners. The both sides' cooperation on the one hand totally prevented legal risks of music copyrights, and on the other hand fostered MCSC's professional image of upholding music copyrights. This model of cooperation between these two capable parties was worth pushing forward.

# 收支表

## Income and Expenditure Account

单位: 万元  
Unit : 10,000 yuan RMB

		2009年			2010年		
		Performing Rights	Mechanical Rights	Total	Performing Rights	Mechanical Rights	Total
INCOME	收 入	表演权	复制权	总 计	表演权	复制权	总 计
-LOCAL PERFORMING -OVERSEAS	-国内 表演	2835.28		2835.28	3559.7		3559.7
	-海外	487.56		487.56	430.61		430.61
BROADCASTING RIGHTS	广 播 权	0		0	1900		1900
MECHANICAL RIGHTS	复 制		930.86	930.86		911.55	911.55
Total	收入合计	3322.84	930.86	4253.7	5890.31	911.55	6801.86
EXPENDITURE	支 出	表演权	复制权	总 计	表演权	复制权	总 计
ADMINISTRATIVE EXPENSES	行政开支	591.44	93.09	684.53	1113.47	91.16	1204.63
SURPLUS	收支盈余	2731.4	837.77	3569.17	4776.84	820.39	5597.23
DISTRIBUTABLE AMOUNT	本年度可供分配收入净额	2731.4	837.77	3569.17	4776.84	820.39	5597.23



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