

# Music Matters – Current Legal Issues in the Music Industry in Greater China

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# China – A few statistics

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- Internet penetration - 16% of total population (2007)
- 220 million internet users in February 2008
- 210 million broadband users estimated
- 1.5 million websites

*Sources include: CNNIC; <http://www.chinamobileltd.com/>*

# Music piracy

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- 99% of music files illegal
- Legitimate music market \$76 million
- 1% of global recorded music sales
- MP3 search engines (including Baidu, Sohu/Sogou and Yahoo! China)
- Chinese-based P2P (e.g. Muper, Kugoo, Xunlei and eMule)

*Sources include: IFPI; IIPA*

# Actions taken by China to date

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- Joined Berne Convention for the Protection of Literary and Artistic Works in 1992
- Creation of special courts / court divisions for IP
- Joined WTO in December 2001, therefore agreed to implement the Trade-Related Aspects of IP Rights Agreement ("TRIPS")
- Adopted Internet Regulations in July 2006
- WIPO Internet Treaties June 2007

# China – Enforcement Issues

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- Contradicting decisions?
  - Baidu (2005 - 2007)
  - Yahoo! China (2007)
- Encouraging developments?
  - Shanghai Shengbu Music and Culture Ltd –v- Beijing Iwmusic.com; Beijing Boshengfangan Information Technology Co. (2005)
  - Beijing Zhongsou
- New cases:
  - Soho / Sogou (2008)
  - Baidu - 2 separate actions by IFPI and Music Copyright Society of China (2008)

# Next steps for China

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- Greater consistency in Court decisions
- Lower evidentiary requirements
- Step up criminal prosecutions
- Lower thresholds for bringing criminal cases
- More effective enforcement
- Re-consider business model for China?

# Hong Kong Government's Public Consultation on Copyright Protection in the Digital Environment

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- Liability in relation to the uploading / downloading of infringing copies of copyright works on the internet
  - Right of communication



## Role of online service providers in relation to combating internet piracy



Facilitating copyright owners to take civil action  
against online infringement

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## Statutory damages for copyright infringement

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## Exemption for temporary reproduction of copyright works

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# Contact details

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