

Rules on the Procedure for Notice-and-Takedown (in the form of a draft order of the Minister of Justice of the Republic of Kazakhstan)

1. Action by the Right Holder

1. Where a copyright or related rights infringement is committed through the Internet, the right holder (hereinafter- *the applicant*) shall have the right to submit a notice of infringement to the owner of the website or webpage on which the infringing material is posted.

2. A copy of the notice shall also be sent to the service provider that provides services or resources for the hosting of the respective website.

2. Content of the Notice

The notice shall contain the following information:

1. details of the applicant (full name or legal entity name, address, and contact information);
2. description of the object of copyright and/or related rights;
3. confirmation of proprietary rights, indicating the legal basis for their acquisition and the term of validity;
4. a precise indication (URL or other location) where the allegedly infringing material is located;
5. a request to restrict access to the infringing material;
6. details of hosting service provider;

3. Actions of the Website Owner

1. The website owner shall, within 48 hours from receipt of the notice:

- 1) restrict access to the material specified in the notice;
 - 2) notify the applicant and the service provider of the measures taken;
2. The website owner may refuse to comply with the notice if:

- 1) the owner has a lawful right to use the material;
- 2) the owner is not the operator of the website or webpage indicated in the notice;
- 3) the notice does not meet the established requirements.

3. A notice of refusal shall be sent to the applicant and the hosting service provider within 48 hours, stating the reasons for refusal and identifying information about the website owner.

4. Actions of the service provider

1. If the website owner fails to take the required measures within the prescribed time, the applicant may submit the notice directly to the service provider;

2. The service provider shall, within 24 hours of receipt of the notice:

- 1) Forward a copy of the notice to the website owner;
- 2) If the website owner remains inactive, independently restrict access

to the infringing material;

3. The website owner may challenge the restriction by sending a counter-notice to the service provider;

4. If, within ten (10) working days from the date of notification, the applicant fails to provide proof of filing a court claim for protection of rights, access to the restricted material shall be restored.

5. Obligations of Website owners and Hosting Providers

1. Website owners and service providers shall make publicly available on their websites the following information:

1) full name (or legal name);

2) address of residence and location;

3) contact information, including email address and telephone number;

2. Hosting service agreement shall include provisions prohibiting the placement of digital materials that infringe copyright and/or related rights of the third parties.

6. Liability

1. The website owner or webpage operator shall not be held liable for Infringement of copyright and/or related rights if the required measures to restrict access were taken in a timely manner in accordance with these Rules.

2. Liability shall arise where, within a three-month period, two or more similar infringements occur on the same website and the owner fails to take adequate preventive measures.