

# Research on the Innovative Legal Protection of The Broadcasting Right of Sports Events from The Perspective of New Media

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**Abstract:** On January 14, 2021, the General Administration of Sport of the People's Republic of China quoted the article of China Sports News as saying that we should adhere to the construction of the socialist legal system with Chinese characteristics and establish and improve the rule of law norms. This paper is committed to reflecting on the problems existing in the broadcasting right of sports events in China, and on this basis, puts forward reference suggestions for the construction of the legal system of the broadcasting right of sports events. The article is mainly divided into four parts. The first part is the concept, right composition and development process of sports event broadcasting right; The second part is the current situation of the legislative protection of the broadcasting right of sports events from the perspective of new media; The third part is the theoretical reflection on the broadcasting right of sports events from the perspective of new media; The last part is the legal protection strategy of sports event broadcasting right from the perspective of new media.

**Keywords:** Sports Event Broadcasting Right, New Media, Licensing Right.

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## 1. Introduction

With the launching of the 2022 Qatar World Cup, the right to broadcast sports events has again aroused heated debate. With the influx of a large amount of capital, the price of broadcasting rights for sports events has skyrocketed. At present, China is gradually relaxing the restrictions on the broadcasting rights of sports events. The prosperity of the market economy urges major media to seize the opportunity to seize resources. Looking back at the early stage of the imperfect development of the Internet, the public can only feel the sports events by watching them on the spot. [1] However, with the development of the Internet and new media, the public has achieved the goal of "knowing everything at home", and the broadcasting right of sports events has reached the center of the stage.

However, with the continuous development of the broadcasting rights of sports events, some contradictions have gradually emerged. As for the major platforms of the Internet, with the fierce competition for the broadcasting rights of sports events, the broadcasting rights of top events are basically monopolized by large capital platforms in various forms. [2] Due to various reasons such as monopoly, the price of new media broadcasting rights has soared all the way, which has also brought some negative problems. The most prominent problem is that the infringement of the broadcasting of sports events happens from time to time. For example, some small media (media without broadcasting rights) broadcast wantonly for the benefit of "desperate", which leads to many disputes. But the bigger problem is that when these disputes resort to law, due to the imperfection of the legal system, the obligee has no basis to defend their rights, and the drawbacks of legal lag are all revealed.

## 2. The Current Legal Protection of The Right to Broadcast Sports Events from The Perspective of New Media

The legal and compliant broadcasting of sports events is the most basic principle that the rights subject should abide by. The broadcasting of sports events is subject to legal norms from the perspective of reality and should be. The guidance and evaluation of the law run through the broadcasting of sports events in new media. At present, China's legal protection of the right to broadcast sports events is mainly reflected in legislative protection and judicial protection.

### 2.1. The Civil Code protects the broadcasting right of sports events from the perspective of new media

Under the current legal framework of China, media organizations need to reach an agreement with the organizers of sports events in accordance with the contract of the Civil Code in order to obtain the broadcasting rights of sports events. [3] There are three common ways to conclude agreements between the organizers of sports events and the new media platform: first, both parties negotiate the contract on an equal basis, and the transferor and transferee of the sports event communication right jointly negotiate the price, rights and obligations and other contract terms; The second is public bidding. According to the relevant laws and regulations, the transferor chooses the best of many platform bidders to transfer; The third is the collective sale and then the resale. The transferor will sell the package to the large media platform and allow it to sell freely.

With regard to the above acts, Article 4, Article 5, Article 6 and Article 7 of the Civil Code restrict the new media platform and event organizers with the principles of good faith and equality and voluntariness, and strictly regulate their civil acts. The transfer of their rights and the performance of

the contract must follow the principle of equality and voluntariness. Even if CCTV is the transfer subject, it should also be carried out on the basis of equality and voluntariness.

## **2.2. The Protection of the Right to Broadcast Sports Events from the Perspective of New Media by the Copyright Law**

Copyright laws such as the Copyright Law (effective in June 2021), the Regulations for the Implementation of the Copyright Law, the Regulations on the Protection of the Right of Information Network Communication and other copyright laws protect the broadcasting right of sports events. For the live broadcast of sports events that constitute the works, the live broadcast of sports events belongs to the audio-visual works specified in Article 3 of the Copyright Law, and corresponds to the right of information network communication specified in Article 10 of the Copyright Law. The act of transmitting the game pictures on the new media platform belongs to providing the works to the public by wireless means, and the public can obtain the works at a selected time. [4] Compared with the previous edition, the provisions of Article 3 of the Copyright Law on audio-visual works include the audio-visual content formed by the editing works of sports events and the collection works of different events into the scope of protection, which can be said to expand the scope of protection of the broadcasting rights of the new media platform, and has positive significance for the copyright protection of the new media platform.

## **2.3. The Protection of the Right to Broadcast Sports Events from the Perspective of New Media by the Anti-Unfair Competition Law**

In the market economy, the broadcasting right of sports events originates from the profit demand of the organizers of sports events, and operates in the profit demand of the audience rating of the media. There is no doubt that it is a property right with commercial nature. [5] Where there is a market, there will be competition. Competition is the core of market economy. Article 2 of the Anti-Unfair Competition Law defines unfair competition and clarifies that it is unfair competition for new media platforms or event organizers that violate the provisions of this Law, disrupt the order of market competition, and damage the legitimate rights and interests of other operators or consumers. In the Anti-Unfair Competition Law, all competition subjects should have equal status and follow the rules of honesty, trustworthiness and fair competition.

## **3. Problems in Legal Protection of Sports Event Broadcasting from The Perspective of New Media**

The ever-changing media technology has very strict requirements for legislation, law enforcement and justice. The complexity of the media environment and the uncertainty of the broadcasting right of sports events have brought a series of problems to the protection of the broadcasting right of sports events. Imperfect haircuts, non-standard transfer contracts, and the ambiguity of judicial decisions all pose certain obstacles to the legal protection of the right to broadcast sports events from the perspective of new media.

### **3.1. Poor coordination and unity of legal norms in the context of new media**

There are disputes about the concept and nature of the broadcasting right of sports events, and laws such as the Copyright Law and the Anti-Unfair Competition Law have no clear regulations on it. Although it seems that the broadcasting right of sports events can be targeted through audio-visual works, broadcasting organizers' rights, and promotional clauses, but as long as the act is put into the network media environment and the networking industry, the above provisions are hardly applicable. Even works can not be formed, let alone protected. Moreover, from the perspective of the licensing dimension of broadcasting rights, the Copyright Law has no response to this, and the Anti-Unfair Competition Law has only principled provisions. If the rapid rise of the Internet industry is regulated only by principled provisions, it is difficult to guide those new media platforms that are sensitive to the law. In practice, the right to broadcast sports events only depends on the constitution of the organizers of sports events and the contract between the organizers of sports events and the broadcaster of sports events, which shows that its right status is not stable. [6]

### **3.2. Serious monopoly of new media broadcasting rights**

China has the characteristics of administrative power restricting competition, centralized sales and joint purchase, and market dominance of large media platforms. The broadcasting rights of sports events of new media are severely challenged, and monopoly often occurs. The monopoly situation of broadcasting rights of the Olympic Games, the Asian Games, the World Cup and other influential large-scale events is relatively severe. In 2000, the State Administration of Radio, Film and Television (SARFT) issued a notice on strengthening the television coverage and broadcasting of sports events, which clearly stated that the television broadcasting rights of major international sports events, such as the Olympic Games, the Asian Games and the World Championships, can only be negotiated and purchased by CCTV, and other television stations have no right to directly purchase and broadcast. In this context, the live broadcast content and time of all major sports events are exclusively provided by CCTV, and local TV stations must be authorized to broadcast them. Later, with the release of broadcasting rights of sports events and the gradual popularization of new media, CCTV not only broadcast large-scale sports events on its sports channels, but also broadcast the entire media of its subordinate CNTV (CCTV International), and also broadcast them to other media companies through high-priced distribution, monopolizing the broadcasting rights of large-scale sports events. In 2014, the State Council Document No. 46 released the restrictions on the broadcasting rights of some large-scale sports programs, but the right to negotiate and purchase the broadcasting rights of major international sports events such as the Olympic Games, the Asian Games and the World Cup football match is still firmly in the hands of CCTV. In addition, the broadcasting rights of China Super League, CBA and other large domestic sports events are also monopolized by a few large media platforms, and other media are hard to share.

### **3.3. We media and media platforms are prone to network infringement**

The network has the convenience of high-speed transmission and the timeliness of speed. With the widespread popularity of mobile digital devices, it is no longer uncommon to use new media means to carry out network broadcasting of sports events. While network broadcasting occupies a large market share, network infringement problems of self-media and media platforms have also begun to emerge in large numbers. A large number of pirated broadcasting acts have ostensibly benefited the audience, made profits for We-media, and brought profits to bad platforms. In fact, the entire network broadcasting rights market has been split up, resulting in the lack of power at the supply end and pressure at the buyer end, which has led to the continuous decline of the value of the broadcasting rights of sports events. Sports have formed a vicious circle, and finally died out.

## **4. Legal Protection Strategy of Sports Event Broadcasting Right from The Perspective of New Media**

In the new media era, the broadcasting right of sports events has actually undergone significant changes, and its connotation and extension have certain epochal significance. It is impossible to realize the legal protection of its broadcasting right of sports events once and for all. Therefore, based on the improvement of the law, we should strictly enforce the protection of intellectual property rights, improve the guidance of judicial adjudication, and enhance the copyright awareness of the media subject and audience, and build a three-dimensional protection system, with a view to achieving reasonable protection of the right to broadcast sports events in the context of new media.

### **4.1. Improve relevant laws and their application, and provide basic guidance for the protection of broadcasting rights of sports events**

In the context of new media, the broadcast of sports events involves event organizers, contestants, large media platforms, We-media and audiences. Moreover, we-media has the dual attributes of both communicators and audiences. Its interests involve the ownership of broadcasting rights, fee collection, market monopoly, etc. The macro relationship between regulators, markets and consumers as well as the above micro relationships must be clearly defined in accordance with relevant laws. Whether the event organizer is in a dominant position, whether the market monopoly is conducive to promoting the balanced competition of sports organizations, and whether the relativity of the broadcasting right of the media platform can be broken through, a series of questions need legal answers urgently. Even though the disputes over the broadcasting rights of sports events between various media have been resolved through the courts, the results and value orientation of the resolution are not clear. At this stage, the requirements of the Sports Law, the Copyright Law, the Anti-unfair Competition Law and the Anti-monopoly Law are not only to protect the broadcasting rights of sports events, but also to specify and implement them in order to promote the development of China's sports industry and meet the growing cultural needs of the people.

#### **4.1.1. Improve the Sports Law and set up the broadcasting license of sports events**

The Guiding Opinions of the General Office of the State Council on Accelerating the Development of the Sports Competition Performance Industry (GBF [2018] No. 121) pointed out that "the relevant rights of the event belong to the event organizers who legally hold the event, such as individual sports associations at all levels and other social organizations, enterprises and institutions", "Promote the revision of the Sports Law of the People's Republic of China and accelerate the reform, abolishment and interpretation of relevant laws and regulations in the field of sports" (GBF [2019] No. 40) also indicates that the Sports Law is about to be revised. [7]The right to broadcast the event is actually a right that exists in fact. The event organizer and the media platform sign an agreement to exercise this right, but the law has not explicitly confirmed it.

First, through the "Sports Law", the right and ownership of the broadcasting license of the event should be clarified. The relative rights protection scheme in the sense of contract cannot achieve the economic and social goals for the organizers of sports events and new media platforms and other legitimate rights and interests actors. Therefore, by clarifying the rights of the organizers of sports events (the right of broadcasting license), and clarifying that they are the world rights and absolute rights similar to the inviolability of residential rights, we can firmly establish the actual status of the organizers of sports events, and ensure that they exercise their rights and defend their rights and become famous. Among the organizers of sports events, participants of sports events and broadcasters of sports events, we should make a choice of value, clarify the principle of who organizes and who profits, determine that the organizers of sports events have the right to license the broadcast of sports events, stimulate the enthusiasm of the organizers of sports events, actively prepare for large-scale sports events, and enrich the supply of cultural services in China.

Second, through the "Sports Law", the transfer form, scope of rights and income distribution of sports event broadcasting rights are refined. The broadcasting of sports events is actually a part of the cultural market. The organizers of sports events and the broadcasting media platform are all providers of cultural services. Therefore, we should abandon the idea of national arrangement and put an end to monopoly. The Sports Law should stipulate that the right of license transfer should take the form of public bidding to achieve a certain degree of openness and transparency of cultural service providers and bring the social benefits of cultural services into play. In addition, we should learn from the experience of European and American countries, list some important events separately, prohibit the event organizers from making exclusive or exclusive licenses for such events, and ensure that there are free communicators who do not charge the public to participate in the dissemination. This not only takes the public interest into consideration, but also prevents the broadcaster from monopolizing the benefits brought by the broadcasting license.

#### **4.1.2. Standardize the application of the Copyright Law and the Anti-Unfair Competition Law**

In the 2021 edition of the Copyright Law, the broadcasting right of sports events is still not adopted as a legal copyright, but the broadcasting right of sports events in the context of new media is closely related to the form of the rights of video products and audio-visual works in the Copyright Law.

As a compound right, the broadcasting right of sports events has both the connotation of broadcasting license and the connotation of copyright law protection of broadcasting results. As the live broadcast or the playback material after the live broadcast, if it has creativity (the author believes that the standards of creativity are not consistent with the courts in fact), some scholars believe that it constitutes audio-visual works or audio and video products, and the infringement and theft of broadcasting can be remedied through the Copyright Law. But in fact, the Anti-unfair Competition Law is the Competition Law, which has become the lifeline of the rights protection of the new media platform. It is very sad. Therefore, in legal practice, when creativity is controversial or unclear, and it is difficult for courts or law enforcement agencies to judge, the Copyright Law should be applied more clearly to prevent and exacerbate the ambiguity of broadcasting rights, and objectively indulge piracy.

#### **4.2. Strengthen the administrative law enforcement of sports event broadcasting from the perspective of new media**

In the institutional reform carried out in 2018, the State re-established the State Intellectual Property Office under the General Administration of Market Supervision, which optimized the allocation of rights and responsibilities of intellectual property management to a certain extent, but the issue of sports event broadcasting on the sports new media platform was not specifically clear. In addition, although the method of one team of the General Administration of Market Supervision and Administration of the People's Republic of China in charge of law enforcement can avoid the problem of multiple law enforcement and the water control in Kowloon, its professional requirements are very high, and there are certain deficiencies in the staffing of the team. With the continuous updating of media technology, the property rights of sports events dominated by new media and market supervision are integrated, so it is urgent to strengthen the law enforcement and improve the level of law enforcement.

##### **4.2.1. Build a law enforcement model with multi-sector linkage**

The new media has the typical characteristics of extremely fast transmission and borderless scope, and the supervision of the administrative supervision department is difficult. The author believes that under the condition of respecting the existing administrative power allocation system, the State Administration of Market Supervision and Administration can set up a network communication supervision group under the leadership of the Intellectual Property Office, the General Administration of Sport, the Ministry of Industry and Information Technology and other departments as members, and make use of the advantages of multiple departments to supervise the new media field.

##### **4.2.2. Improve the content of administration according to law**

In the process of law enforcement, it is necessary to stipulate the status and scope of responsibilities of law enforcement subjects according to law, determine the division of labor and cooperation and coordination scheme among law enforcement subjects, strictly implement overall coordination, and each department shall take its own responsibilities, and strictly standardize law enforcement. [8]In our daily work, we should innovate our working methods, eliminate backward working methods, unblock the channels of communication

with the masses, actively listen to the opinions of the masses and accept their supervision. In case of infringement or illegal acts on We-media or media platform, various administrative penalties such as fines, rectification orders, and revocation of licenses shall be applied according to law. The newly established media companies should be tolerant but not indulgent.

#### **4.3. Standardize the business behavior of new media operators and sports**

New media operators are important providers of media services in the Internet era. Especially for some Internet giants, everything they say and do affects the trend of the Internet market. [9]Therefore, it is extremely important to standardize the commercial behavior of new media operators and urge them to treat the economic and social benefits harmoniously and uniformly in the form of sports event broadcasting rights or related behaviors.

##### **4.3.1. Improve the legal awareness and risk prevention and control awareness of new media operators**

The new media platform is a high-quality product of mobile internet. Its ways of making profits through the broadcasting rights of sports events are rich and diverse, but it also has higher illegal costs and easier illegal channels. [10]It is very important to establish legal awareness and risk prevention awareness. First, we should establish the awareness of intellectual property rights. When acquiring and exercising the broadcasting rights of sports events, we should always keep comprehensive evidence to prove the rights, so as to provide a systematic basis for rights protection and reduce the cost of rights protection. Second, we should establish a sense of standardization, regulate our own Internet behavior, and remain unwavering in the face of the great temptation of pirated broadcasting. Third, establish the awareness of risk prevention and control, use the advantages of technology and personnel to carry out risk prevention and control and actively protect rights, and improve the accuracy of rights protection.

##### **4.3.2. Establish an industry self-discipline system for new media operators**

Market-oriented competition naturally means open management, and administrative law enforcement has the characteristics of high cost and limited efficiency. If industry associations are formed between different platforms through regulations, and the behaviors of themselves and members are standardized through the overall self-discipline of the industry, it can improve the efficiency of the use and protection of the network broadcasting rights of sports events, and promote the prosperity and development of sports events. [11]To be specific, the first is to strengthen the guidance. The government departments should take the lead in organizing the negotiation and discussion among the various departments with competitive and cooperative relations. The second is to prevent the formation of a large Internet platform and control industry associations. The third is to integrate clubs and sports event organizers into industry supervision and industry self-discipline, and turn industry self-discipline into a diversified supervision mechanism for normalized management.

#### **4.4. Enhance the copyright awareness of We-media and the public**

The typical embodiment of the infringement of the broadcasting right is that the we-media platform steals the

broadcast of sports events due to the exercise of its right to freedom of expression, resulting in the loss of the broadcasting right owner. There is no killing without buying and selling. The public's laissez-faire attitude towards piracy also provides the soil for the growth of criminal intent in the media of sports events. Therefore, it is very important to improve the copyright awareness of We-media and the public.

In fact, we-media has caused great harm to the broadcasting right holders by stealing the pictures of sports events. The loss of its exclusive rights has resulted in the loss of the audience, and may even face claims from advertisers. In the final analysis, it is because we-media believes that it is an outsider or that it is not illegal. Therefore, when the copyright law is not comprehensive, we media should strengthen the awareness of copyright and make it clear that its piracy will cause losses to others and may constitute infringement of property or commercial interests, and still bear the responsibility. The we-media platform should strengthen the management of users, define zero tolerance for copyright infringement by updating user agreements, and guide we-media users through platform autonomy.

## 5. Conclusions

In the era of new media, digital resources have brought great convenience and improved the overall level of sports services on the one hand, but on the other hand, it is also very easy to cause infringement of the broadcasting rights of sports events. To discuss the protection of the broadcasting rights of sports events in the perspective of new media is actually to explore how to improve the level of sports services. In the face of the phenomenon of illegal broadcasting on the broadcasting platform of sports events, legal protection can help the obligee to protect their rights, but its lag is also obvious. In order to realize the sound use of the broadcasting rights of sports events in the new media era, sports event organizers, sports event clubs, new media operators, government departments and cultural consumers are all the subjects of this problem, and all have their irreplaceable positions and responsibilities.

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