

**Letterhead of Hong Kong Reprographic Rights Licensing Society**

**18 May 2001**

Hon SIN Chung-kai  
Chairman, Bills Committee

cc: Members of Bills Committee

Dear Chairman,

Copyright (Suspension of Amendments) Bill 2001

HKRRLS fully supports the implementation of the Intellectual Property (Miscellaneous Amendments) Ordinance 2000 ("the Ordinance"). The Ordinance has brought Hong Kong Copyright Law into compliance with Hong Kong's TRIPS obligations. The Ordinance does not go further than the criminal provisions applying in other countries throughout the world (see Submission of IFRRO, dated 25 April 2001).

We join with other copyright organisations in Hong Kong and throughout the world to oppose the suspension of the Ordinance in so far as it relates to reproduction rights generally, and particularly in so far as reprographic (photocopying) rights are concerned. The arguments mounted by opponents of the Ordinance are misleading, exaggerated in the extreme and therefore distort the true position. Furthermore, a suspension of the provisions will unreasonably prejudice the legitimate interests of copyright owners of literary and artistic works everywhere.

HKRRLS opposes the suspension of the Ordinance in relation to the rights that it administers, since it is ready to licence on request any user who needs a licence to photocopy works in our repertoire.

We submit that due consideration should also be given to the following matters:

1. The general public has nothing to fear from the Ordinance. For the reasons that innocent and negligent photocopying infringements will not pass the minimum threshold for criminal liability.

2. Many statements made in the press about the difficulties of clearing photocopying rights in Hong Kong have been grossly exaggerated or are simply untrue. (please refer to Supplementary Note).
3. HKRRLS is in the business of acquiring mandates from rightsholders to authorize photocopying. It has mandates from more than 50 local publishers and authors and also represents publishers and authors worldwide via its reciprocal arrangements with other reprographic rights organizations throughout the world (also known as "RRO's). Given appropriate encouragement from the Hong Kong government, HKRRLS' representation of local rightsholders will grow.
4. Claims that there is no licensing mechanism available for users who wish to photocopy in Hong Kong are false or are made in ignorance of the existence of HKRRLS and the extent of its mandates from local and foreign rightsholders.
5. HKRRLS is also in the business of licensing users for their photocopying needs. We have experienced marked resistance to our licensing efforts to date notwithstanding that we represent more than 1.7 million publications, a great number of which are photocopied on a repetitive basis throughout Hong Kong. This resistance has become even worse since unhelpful statements were made in the press in which the existence of HKRRLS was overlooked.
6. HKRRLS, IFRRO, the international associations of authors and publishers and other rightsholders, however, have unanimously opposed suspension. They have made the necessary arrangements in respect of photocopying rights.

HKRRLS urges the Bills Committee to:

- recommend that the Government recognize HKRRLS' existence (which it has failed to do to date), and
- urge both users and local rightsholders to deal with it
- recommend that the Ordinance remain in force for reproduction rights in books, magazines and other materials (whether in printed or digital formats)

- the Ordinance continue to apply to serious and criminal infringements of reprographic rights controlled by HKRRLS and the international community of RRO's, publishers, authors and artists.

Yours sincerely,

Viking Yam  
General Manager

Encl: 1. Brief of HKRRLS  
2. Supplementary Note  
3. Summary of Comparative Analysis of Criminal Provisions

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### **PRESS RELEASE**

For the first time in Hong Kong, anyone who wishes to make photocopies of published materials can do so legally.

Hong Kong Reprographic Rights Licensing Society (HKRRLS) is a non-profit collective licensing agency set up under the provisions of the Copyright Ordinance to help reward creators properly for their work and to provide users with a simple way of obtaining the right to make photocopies. HKRRLS can now sign licences with organizations wishing to provide their members or customers with the facility of making photocopies.

HKRRLS represents all leading local and Hong Kong-based international educational publishers. It is also about to launch a drive to sign up both local publishers of other categories of books, magazines and newspapers, and authors of all these publications.

### **Why is it necessary to have such a body?**

First, millions of dollars of business are lost each year in Hong Kong as a result of unauthorized photocopying. Each of these illegal acts is, however, in itself on a small scale, so copyright owners are unable to keep track of them and users find applying for permission too onerous - even if they realize that they are required to do so ... and a recent survey showed that only 40% of our community do understand that photocopying infringes the rights of the creator.

Second, Hong Kong's future is as a knowledge-based economy. This can be achieved only if creators are encouraged to create and users are provided with a means of exploiting such creations. HKRRLS does this, and thereby helps Hong Kong to develop an image as a territory in which intellectual property rights are effectively protected.

### **How much will users have to pay?**

Licence fees, based on estimated usages deriving from international experience, are discussed with user institutions. Rates depend on the category of the organization (copyshop, government, university, school, public library etc) and on its size.

### **To whom do the licence fees go?**

Licence fees received will be distributed to publishers and authors. Details of the mechanisms have yet to be finalized, but these will be based on well-established models used by reproduction rights organizations in other parts of the world.

### **Why now?**

The making available of photocopying licences is a timely move in the battle against the infringement of intellectual property rights as it helps in the promotion of Hong Kong as a hi-tech centre and media hub. It also brings Hong Kong into the international community of developed territories with its own reproduction rights organization; and it enables publishers and authors to work on a basis similar to the music, film and software industries. All of these have collective organizations in Hong Kong working to protect the interests of creators and to help users to leverage on these creations.

**Supplementary Note**

<b>Licensing mechanism in action</b>				
<b>Date</b>	<b>Action</b>	<b>Education</b>	<b>Public Admin.</b>	<b>Private Enterprises</b>
1995	HKRRLS formed			
1998	IFFRO membership			
1999-2001	Reciprocal Agreements			Enforcement
2000		Licensing		
2001		Licensing	Licensing	Licensing
2001-2002				Certification Program*
<b>How it works?</b>				
<p>* HKRRLS Licence covers 1.7 million publications.</p> <p>* school based fee for \$200/\$100 p.m.</p> <p>* usage based rate at \$0.15 per copy</p> <p>* civil services covered for internal use</p> <p>* employee based at \$5 each</p> <p>* Certified Business User*</p>				

\*HKRRLS will introduce certification program to identify Business Users who obtained licence.

## Summary of

### Comparative Analysis of Criminal Provisions

	<b>HK</b>	<b>UK</b>	<b>Australia</b>	<b>Ireland</b>	<b>NZ</b>	<b>Canada</b>	<b>US</b>
Wilfulness proved	strict	strict	reasonable Ground	strict	strict	stricter	stricter
Quantitative limits	no	no	no	no	no	no	no
Liability	broad	broad	broader	broader	broad	distribution only	financial gain
Penalty	severe	severe	more severe	severe	severe	severe	more severe