

Our Ref : 51/WKC/078
27 April 2001

The Hon Sin Chung Kai
Chairman of the Bills Committee to study the Copyright
(Suspension of Amendments) Bill 2001
Legislative Council

By fax : 2509 9688

Dear Mr Sin,

Copyright (Suspension of Amendments) Bill 2001

As you know, the Chamber championed the suspension of the application of the Intellectual Property (Miscellaneous Amendments) Ordinance to reprographic rights. It is our view that the administration of copyrights should be guided by the principle of reasonableness, under which casual photocopying should not be criminalised. Our position is detailed in our paper to the Legislative Council Trade and Industry Panel on 12 April entitled “Reprographic Rights and Fair Dealing”.

It is with this same sense of reasonableness and fair play that we would like to express concern over recent suggestions from some quarters of the community, including some members of the Legislative Council, that the suspension bill be applied to the whole of the Amendments Ordinance. This will render the Amendments Ordinance no longer applicable to computer software and audiovisual products for which the Ordinance was intended. We strongly object to this across-the-board application of the suspension bill.

We have emphasised time and again that despite our opposition to criminalising casual photocopying, we remain a strong supporter of the Amendments Ordinance in combating genuine infringement of rights in the course of business. For Hong Kong to become an innovation-driven, knowledge-based economy, a strong regime of IPR protection is crucial. While one must not go overboard by applying it to photocopying or downloading of information of a casual and not-for-profit nature, a line has to be drawn between that and the use of unauthorised copies of software, which is clearly an infringement of copyright.

Since the February 1999 consultation on strengthening the legal regime for IPR protection, much progress has been made in educating the business sector and the community about the importance of respecting intellectual property rights. That the use of unauthorised software in business should be illegal, is well-founded in IPR law; it is also accepted common sense. Having made the effort to clamp down on piracy and counterfeiting, to revert to a weaker regime will be to nullify years of effort in IPR protection.

As Hong Kong strives to become a centre of innovation and technology, effective protection of IPR has taken on an added significance. To tolerate software piracy in business – which is what full application of the suspension bill will mean – will be a setback for the burgeoning local software and IT industry as well as damaging to Hong Kong's international reputation. We urge the Bills Committee and the Legislative Council to consider this carefully and to uphold the original intention of the suspension bill, namely, to apply it only to photocopying, broadcasting and downloading.

Thank you for your attention.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Eden Woon', with a long horizontal flourish extending to the right.

Dr Eden Woon
Director