

## **TVB's Submission on the Copyright (Suspension of Amendments) Bill 2001**

### General Support of the Suspension Bill

1. We support the Government's initiative to temporarily suspend the application of the criminal provisions in the Copyright Ordinance as amended by the Intellectual Property (Miscellaneous Amendments) Ordinance 2000 ("the Amended Ordinance") in relation to certain works before formulating a long term solution to address the problem encountered by the business organizations in dissemination of information internally.

### Exceptions to the Suspension

2. However, we disagree with the categories of works that the Bill proposed to be excepted from the suspension of amendments. The main reason for the suspension of the criminal provisions is to address and facilitate the practical need of the business organizations to be able to freely and timely distribute and disseminate information that are relevant to their trade or business.
3. We submit that the exceptions stipulated in Section 2(2) of the Bill does not correctly reflect the types of works that a trade or business could be reasonably expected not to require for its internal distribution and reference. Section 2(2) of the Bill provides that the suspension provision in Section 2(1) does not apply in relation to an infringing copy of a movie, TV drama, sound recording or film of music or song and a computer program. We would question the rationale to preserve the criminal provisions in relation to these categories of works only but not the others. In particular, we do not see any justification to specify TV drama only in this subsection. This subsection effectively discriminates different types of works such that some of which will remain to be protected by criminal sanctions but some will not.
4. We strongly believe that all films, broadcasts or cable programmes should be included in this Section 2(2). Merely specifying TV drama will exclude many other types of TV programmes such as variety shows, our Miss Hong Kong Contests, travelogues, game shows, sporting events, news and public affairs etc. These are all non TV drama programmes.
5. The Amended Ordinance has been widely criticized because it does not cater for the practical needs of most business organizations to make a timely copies of news information about their companies or industries for internal reference. We do not see the need for any organization to make copy of any films, broadcasts or cable programmes, which are not relevant and not necessary for internal dissemination by business organizations. The proposed exceptions in the Bill

clearly go beyond that are necessary to address the current problem arisen from the Amended Ordinance.

6. We believe it would make more sense to consider provisions of the Bill in light of the respective interests and requirements of the business communities and the copyright owners.

#### TVB's Recommendation

7. We would strongly recommend that as an interim measure, the proposed Section 2(2) of the Bill should provide exception for all films, broadcast or cable programmes.
8. For the longer run, the principle of protecting copyright works should be preserved while certain exceptions in the legislation may be made where appropriate. In this respect, we would like to refer to our previous submission dated 11 April 2001, in particular to paragraphs 7 and of 8 our submission, a copy of which is attached for reference. We believe the Amended Ordinance should be reviewed. We would welcome further opportunities to make comments on future legislation on the Copyright Ordinance.

Dated 9 May 2001