

Our ref. : CIB 09/46/12  
Your ref. :

Tel. no. : 2918 7418  
Fax no. : 2869 4420

29 May 2001

Mr Stephen T. H. Ng  
Chairman, President & Chief Executive Officer  
Hong Kong Cable Television Limited  
Cable TV Tower, 9 Hoi Shing Road  
Tsuen Wan, Hong Kong

Dear Mr Ng,

### **Copyright (Suspension of Amendments) Bill 2001**

Thank you for your letter of 18 April. My colleagues subsequently met with your Mr Desmond Chan on 15 May 2001 to discuss issues of concern to Cable TV relating to the Copyright (Suspension of Amendments) Bill 2001 (“the suspension Bill”).

2. You have expressed concern about the impact of the suspension Bill on the unauthorised viewing or showing of Cable TV programmes in private and public places, and on the use of unauthorized decoding apparatus.

#### **Unauthorised viewing or showing of Cable TV programmes**

3. Under the Copyright Ordinance, unauthorised viewing of a cable programme is not an act infringing the copyright in the cable programme. While the showing of a cable programme in a public place (e.g. pubs or karaoke bars) is an act restricted by the copyright in that cable programme, it is not a criminal offence no matter the cable programme is received by an unauthorised device or not. This is the position even under the more stringent criminal provisions in the Copyright Ordinance which came into effect on 1 April 2001. The suspension Bill therefore has no real impact on the unauthorised viewing or showing of Cable TV programmes.

### **Use of unauthorized device for receiving Cable TV programmes**

4. Under section 275 of the Copyright Ordinance, a cable programme service provider has the same right as a copyright owner has in respect of an infringement of copyright, against anyone who makes, imports, exports, sells or lets for hire a device which enables or assists persons to receive a cable programme when they are not entitled to do so. However, the use of such a device is not an infringing act no matter it is for commercial purpose or not. The suspension Bill also has no real relevance to this issue.

### **Criminal liability of unauthorised viewers**

5. We note your proposal that the Copyright Ordinance should incorporate provisions similar to those in section 297 of the Copyright, Design and Patents Act of the United Kingdom, whereby a person who dishonestly receives a cable programme with intent to avoid payment to the reception of such programme commits an offence. We have an open mind on this suggestion and will include the issue in our public consultation exercise in summer/autumn of this year.

Yours sincerely,

(Kenneth Mak)  
for Secretary for Commerce and Industry

c.c. IPD (Attn: Ms Maria Ng)  
Legislative Council Panel on Commerce and Industry  
(Attn: Mrs Florence Lam)