

5 June 2001

Mrs. Florence Lam
Clerk to Bills Committee
Legislative Council

(By email & by fax)

Fax no.: 28694413

Dear Mrs. Lam,

Copyright (Suspension of Amendments) Bill 2001

We understand that the letter dated 29 May 2001 from the Secretary for Commerce and Industry to us has been included in the papers for the Bills Committee. We would like to send you our reply to the letter in case the Bills Committee may find it relevant.

Thank you.

Yours sincerely,

Desmond Chan
Corporate Lawyer

Encl.

4 June 2001

Mr. Kenneth Mak
Deputy Secretary for Commerce and Industry
Commerce & Industry Bureau
Level 29, One Pacific Place
88 Queensway
Hong Kong

By fax & by post
(Fax no.: 28694413)

Dear Mr. Mak,

Copyright (Suspension of Amendments) Bill 2001

Thank you for your letter of 29 May.

We are delighted that the Government would include in the public consultation exercise a new offence of fraudulently receiving pay TV programmes. Nonetheless, given the seriousness of the problem and a prolonged absence of adequate protection of our copyrights, we hope the Government would prioritize the consultation and legislative processes for the new offence.

Taking this opportunity, may we seek your clarification on why s.118(1)(d), (e)(iii) and (iv) (as amended on 1 April 2001) do not apply if a pub shows our programmes to its customers without our authorization? By virtue of s.27(3) and s.35(2) of the Copyright Ordinance, there exists an infringing copy on the TV set of the pub, albeit in electronic form. The display of such infringing copy by the pub is an act of “exhibiting in public” or “distributing” the infringing copy under s.118(1)(e). The situation is not unlike playing music from a pirated music CD in the pub. Thus, in our view, the pub should be liable.

Your comments on our view would be most appreciated.

Yours sincerely,

Garmen Chan