

(Revised)

立法會

Legislative Council

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**Paper for the House Committee meeting
on 2 March 2001**

**Report of the Subcommittee
on Prevention of Copyright Piracy (Notices) Regulation**

Purpose

This paper reports on the deliberations of the Subcommittee on Prevention of Copyright Piracy (Notices) Regulation (the Regulation).

Background

2. The Intellectual Property (Miscellaneous Amendments) Ordinance 2000 (Ord. No. 64 of 2000) was passed by the Council in June 2000. It amends the Prevention of Copyright Piracy Ordinance (Cap. 544) (the Ordinance) to prevent bootlegging of copyright works in places of public entertainment.

3. Under the new section 31E of the Ordinance, the manager of a place of public entertainment is required to display notices to the effect that the unauthorized possession of video recording equipment in that place is prohibited. Those notices shall be in the prescribed form and include the prescribed statements. Any person who possesses any video recording equipment in a place of public entertainment without lawful authority or reasonable excuse will commit an offence with a maximum fine of \$5,000 for first offence, and \$50,000 and 3 months' imprisonment for second and subsequent offences (section 31C).

The Regulation

4. The Regulation gazetted on 9 February 2001 makes provisions relating to the form of, and the statements to be included in, the notices displayed by the manager of a place of public entertainment, and the locations for such notices for prohibiting unauthorized possession of video recording equipment in that place.

The Subcommittee

5. Members agreed at the House Committee meeting on 16 February 2001 to form a subcommittee to study the Regulation. Under the chairmanship of Hon Timothy FOK Tsun-ting, the Subcommittee has held one meeting with the Administration. The membership list of the Subcommittee is at **Appendix I**.

Deliberations of the Subcommittee

6. The Subcommittee has examined in detail the provisions in the Regulation and the wording and design of the notice set out in the Schedule.

Regulation 3

7. The Subcommittee considers that the Chinese version of Regulation 3 does not fully reflect the meaning of its English version in relation to the "locations" in which the notices are to be displayed. In response, the Administration agrees to amend the Regulation to put beyond doubt that the manager should choose such locations (which could be more than one) to display the notice so that it may be readily seen and read by any person entering that place. The revised wording reads as follows:

"公眾娛樂場所的管理人須在該場所外面的位置展示第2條所指的告示，展示告示的位置及數目須能確保進入該場所的人能輕易看見和閱覽該告示。"

Schedule

8. Much of the deliberations of the Subcommittee has been focused on the wordings used in the prescribed statement set out in the Schedule, in particular the following statement:

"任何人未得管理人的明示同意而攜帶攝錄器材進入電影院、劇院或音樂廳，即屬犯罪。"

"It is an offence to bring video recording equipment into a cinema, theatre or concert hall without the express consent of the manager."

The prime concern of the Subcommittee is whether the prescribed statement reflects fully the effect required of it by section 31E of the Ordinance, as the offence under section 31C is one of unauthorized possession of video recording equipment rather than bringing the equipment into a place of public entertainment.

9. According to the Administration, the term "管有" is the Chinese expression for "possession" in the Ordinance, which they consider too legalistic and not readily understood by a layman. Since the most common offence of "possession" likely to be committed by members of the public is to bring (攜帶) video recording equipment into (進入) a cinema, theatre or concert hall without the express consent of the manager, the wording was therefore so adopted. However, having regard to members' views, the Administration proposes to use "攜有或藏有攝錄器材" to replace "攜帶攝錄器材進入電影院", and make corresponding amendment to the English version to reflect the intent of the Ordinance and to send a clear and direct message to members of the public. The amended version is proposed as follows:

"任何人未得管理人的明示同意，不得在電影院、劇院或音樂廳攜有或藏有攝錄器材。"

"No video recording equipment is allowed in a cinema, theatre or concert hall without the express consent of the manager."

The Subcommittee accepts that the proposed amended version is a better alternative.

10. Regarding the words "without the express consent of the manager" in the statement, the Subcommittee has also examined if this requirement may give rise to arguments and conflicts over the discretion of the manager in allowing the possession of video recording equipment in a place of public entertainment. The Subcommittee however accepts the Administration's explanation that some flexibility has to be provided in the statement as there are some situations, such as school performances, in which video recording can be permitted with the consent of the manager. If any dispute arises on whether lawful authority has been given, the court will make a judgement on the fact of the case and according to the evidence produced.

11. As regards the design of the warning sign used in the Schedule, the Subcommittee is not entirely satisfied with the design, but accepts that it is the best design which the Administration could have after seeking professional advice. The Administration has however taken on board the Subcommittee's suggestion to highlight the relevant terms i.e. 攜有或藏有 in the statement so as to bring home the message more clearly.

12. The Subcommittee takes note of the assurance given by the Administration that it has sought the support of the Hong Kong Theatres Association, the Hong Kong Arts Centre and the Hong Kong Academy for Performing Arts for the implementation of the provisions of the Regulation. The Hong Kong Theatres Association has undertaken to urge its members to

display the notices in their respective cinemas and theatres and to adopt supporting measures including the provision of facilities for patrons to store their video recording equipment so as to minimize any inconvenience to members of the public and tourists. To achieve the maximum effect, the Administration will also publicize the prohibition of unauthorized possession of video recording equipment in places of public entertainment by showing APIs in cinemas and on television.

Proposed amending resolution

13. The Administration will move a motion at the Council meeting of 14 March 2001 to amend the Regulation. The draft resolution is at **Appendix II**. If the motion is passed by the Council, the Regulation will come into effect on 1 April 2001.

Conclusion

14. The Subcommittee considers that the amending resolution to be proposed by the Administration would address the concerns raised and hence, supports the proposed resolution.

Advice sought

15. Members are invited to note the deliberations of the Subcommittee.

Council Business Division 1
Legislative Council Secretariat
2 March 2001

**Subcommittee on
Prevention of Copyright Piracy (Notices) Regulation**

Membership list

Chairman Hon Timothy FOK Tsun-ting, SBS, JP

Members Hon Kenneth TING Woo-shou, JP
Hon HUI Cheung-ching
Hon CHAN Kam-lam
Hon SIN Chung-kai
Hon CHOY So-yuk
Hon Henry WU King-cheong, BBS

(Total : 7 Members)

Clerk Mrs Florence LAM

Legal Adviser Miss Anita HO

Date 23 February 2001

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

RESOLUTION

(Under section 34(2) of the Interpretation and
General Clauses Ordinance (Cap. 1))

PREVENTION OF COPYRIGHT PIRACY
(NOTICES) REGULATION

RESOLVED that the Prevention of Copyright Piracy (Notices)
Regulation, published as Legal Notice No. 39 of 2001 and
laid on the table of the Legislative Council on 14
February 2001, be amended -

- (a) in section 3 by repealing "位置的" and substituting
"告示的位置及";
- (b) in the Schedule -
 - (i) in the heading by adding "THE" before
"ORDINANCE";
 - (ii) by repealing "而攜帶攝錄器材進入電影院、劇院或
音樂廳，即屬犯罪" and substituting "，不得在電
影院、劇院或音樂廳攜有或藏有攝錄器材";
 - (iii) by repealing "It is an offence to bring

video recording equipment into" and
substituting "No video recording
equipment is allowed in".