

LEGISLATIVE COUNCIL BRIEF

PREVENTION OF COPYRIGHT PIRACY (NOTICES) REGULATION

INTRODUCTION

This brief explains the Prevention of Copyright Piracy (Notices) Regulation (“the Regulation”) at the Annex.

BACKGROUND

2. In June 2000, the Legislative Council passed the Intellectual Property (Miscellaneous Amendments) Ordinance 2000 (“the Ordinance”). To prevent bootlegging of copyright works in places of public entertainment, the Ordinance amends the Prevention of Copyright Piracy Ordinance (PCPO) to create an offence for any person who, without lawful authority or reasonable excuse, has in his possession in a place of public entertainment any video recording equipment. A place of public entertainment means any building that is –

- (a) used primarily as a cinema, theatre or concert hall for the showing or playing of films or the performance of literary, dramatic or musical works; and
- (b) required to be licensed under the Places of Public Entertainment Ordinance.

3. The offender is liable on a first conviction to a fine of \$5,000, and on a second or subsequent conviction to a fine of \$50,000 and 3 months' imprisonment.

4. We will commence the Ordinance on 1 April 2001. To ensure that the public will not be caught unawares, we have been publicising the new law widely through various channels. These include announcements over the radio and TV, putting up posters and distributing pamphlets. We have also uploaded some frequently asked questions and answers on the Internet. In addition, the new law will require the display of warning notices at the relevant places of public entertainment.

5. Under section 31E of the amended PCPO, the manager of a place of public entertainment is required to display notices in the prescribed manner and locations, and which shall be in the prescribed form and include the prescribed statements. Failure to do so will be an offence with a maximum fine of \$5,000. Section 38 of PCPO empowers the Secretary for Commerce and Industry to make regulations for anything to be prescribed under the PCPO.

REGULATION

6. The Regulation prescribes the form of the notice, the statements in the notice and the manner and locations for displaying the notice. The notice specifies that it is an offence to bring video recording equipment into a cinema, theatre or concert hall without the express consent of the manager. The locations for display are such that the notice may be readily seen and read by any person entering that place. The notice is modelled on that in the Smoking (Public Health) (Notices) Order.

PUBLIC CONSULTATION

7. We have consulted the Hong Kong Theatres Association, the Hong Kong Arts Centre and the Hong Kong Academy for Performing Arts. They are content with the specifications of the notice. The Hong Kong Theatres Association has expressed its strong support of the Ordinance and has asked its members to adopt supporting measures including the provision of facilities for patrons to store their video recording equipment.

BASIC LAW IMPLICATIONS

8. The Department of Justice advises that the proposed Regulation does not conflict with those provisions of the Basic Law carrying no human rights implication.

HUMAN RIGHTS IMPLICATIONS

9. The Department of Justice advises that the proposed Regulation is consistent with the human rights provisions of the Basic Law.

BINDING EFFECT OF THE REGULATION

10. The Department of Justice advises that the proposed Regulation will not affect the current binding effect of the PCPO.

FINANCIAL AND STAFFING IMPLICATIONS

11. The Customs and Excise Department will be responsible for enforcing the Ordinance. The additional workload will be absorbed within its existing resources.

LEGISLATIVE TIMETABLE

12. The proposed Regulation will be gazetted on 9 February 2001 and tabled at the Legislative Council on 14 February 2001.

PUBLICITY

13. We will inform the operators of the places of public entertainment affected by the PCPO immediately after the Regulation is gazetted.

ENQUIRIES

14. For enquiries on this brief, please contact Mr Philip Chan of the Commerce and Industry Bureau at 2918 7480.

Commerce and Industry Bureau
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