

**Special Meeting of LegCo Panel on Commerce and Industry
on April 12 2001**

Statement by Secretary for Commerce and Industry

Mr. Chairman,

The Intellectual Property (Miscellaneous Amendments) Ordinance 2000, which came into effect on 1 April 2001, has aroused much concern and heated discussions in the community. I wish to take this opportunity to make a response.

The rationale underlying the legislative amendments last year is to enhance the protection of intellectual property rights. Hong Kong is undergoing a rapid transformation into a knowledge-based economy. Our local enterprises increasingly rely on knowledge, technology and innovative ideas to enhance their competitiveness. To cope with this development, it is very important that we adopt a proactive attitude in protecting intellectual property rights and cultivating public awareness of the issue.

The implementation of the Ordinance will foster the development of local knowledge-based enterprises, particularly the growth of the computer software industry, thereby providing more choices of software for our industries. It will also contribute to the development of Hong Kong as a leading information technology city in Asia. In addition, enhancing the protection of intellectual property rights would help attract foreign investments to Hong Kong, which will in turn contribute to our long-term economic development and create more job opportunities.

Intellectual property right is a complex subject. Different media have different regimes for copyright protection and for the licensing of copyright works. In principle, copyright works in all media, such as the electronic media and the printed media, should enjoy the same level of protection without differentiation.

Successful experience of other countries and regions reveals that adequate copyright protection requires the determination of the government, up-to-date legislation and a modern enforcement machinery. Furthermore, it will require a mature and well established licensing mechanism and the cultivation of public respect for intellectual property rights.

In Hong Kong, different media are at different stages of developing their regimes for copyright protection and licensing of copyright works. As regards computer software and compact discs, the licensing mechanism is relatively simple and clear. The Government's determination and measures taken to combat pirated software and compact discs over the past few years have enhanced the public's awareness of copyright protection for these types of work. With the co-operation of the industries concerned, we have been very successful in curbing the piracy of these works at the production and retail levels. Our efforts are internationally recognised.

As regards copying and using copyright works from the printed media, television and radio broadcasts, as well as downloading from the Internet, the Government, relevant copyright licensing bodies and the industries concerned are in the process of considering the establishment of licensing and exemption regimes, or the improvement or enhancement of existing regimes. Thus, when the new Ordinance becomes effective, there is insufficient interaction among the parties, resulting in unclear messages being sent to the community including the educational sector. In addition, a convenient mechanism for obtaining licences is absent. These inadequacies have created worries and inconvenience to the community. The Government regrets the worries and inconvenience caused and accepts the responsibility to explore ways to resolve the problem. As Secretary for Commerce and Industry, I also express my apology to the public.

The Government will proceed immediately to draft a simple amendment bill with the aim of suspending the implementation of the Intellectual Property (Miscellaneous Amendments) Ordinance 2000 concerning criminal provisions as they affect works in the printing media including newspapers, magazines, periodicals and books, as well as broadcasts and cable programmes, and the downloading of information from the Internet. But the suspension will not apply to the downloading of computer programmes, music or films from the Internet. Provisions in the new Ordinance as they affect computer programmes, music and films will remain in force.

We shall seek the consent of the Legislative Council for the amendment bill to go through three Readings in one seating in April under a special procedure. We shall also solicit as soon as possible the views of non-governmental organizations, the copyright industries, and various sectors of the community to work out a long-term solution. We hope to come up with an acceptable solution which strikes a balance between the two important principles of protecting intellectual property rights and free-flow of information. We will, if necessary, make further amendments to the law.

Thank you, Mr. Chairman.