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Our Ref : CIB 09/46/12
Your Ref :

Ms Anita Ho
Assistant Legal Adviser
Legal Service Division
Legislative Council Secretariat
8 Jackson Road
Central, Hong Kong

21 February 2001

Dear Ms Ho,

**Prevention of Copyright Piracy (Notices) Regulation
(L.N. 39 of 2001)**

Thank you for your letter of 12 February. Our reply to the issues raised in your letter, *seriatim*, is as follows -

Regulation 3

2. You ask whether “such notice” instead of “such a notice” should be used to avoid the confusion as to whether the singular or plural form of the word “notice” should be used. Our intention is to ensure that a person entering a place of public entertainment would be able to see a notice. As such, the use of “such a notice” reflects our intention accurately.

3. We note your views on the Chinese version of Regulation 3. After careful consideration, we propose to amend it to read “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。” This will address your

concern by putting it beyond doubt that under Regulation 3, the manager should choose such locations (could be more than one) to display the notice so that it may be readily seen and read by any person entering that place.

Schedule

4. We agree with you that the word “THE” should be inserted before “ORDINANCE” in the title of the Schedule (English version).

5. You ask whether it is prescribed that even in the English version of the Schedule, the Chinese version should be stated first. There is no such requirement. Neither is there a specific requirement for the English version to be stated first. Hence, placing the Chinese version first would also be appropriate.

6. You ask whether the statement in the notice has fully reflected the effect required of it by section 31E of the Prevention of Copyright Piracy Ordinance (“the Ordinance”). As you know, section 31E requires the display of notices which have “the effect (大意) that the unauthorized possession of video recording equipment in that place is prohibited”. There is no statutory requirement that the notice must copy the wording in section 31E word by word, or cover each and every possible scenario caught by the prohibition in section 31E.

(i) 7. In drawing up the notice, we have taken into account the fact that the Chinese translation of “possession” in the Ordinance is “管有”, which is too legalistic and not readily understood by a layman; and that the most common offence of “possession” likely to be made by members of the general 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.

8. We have, however, taken note of your concern. We therefore propose to amend the Chinese version of the statement as “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”. Likewise, the English version is amended as “No possession of video recording equipment is allowed in a cinema, theatre or concert hall without the express consent of the manager”. A revised Schedule is at the Annex.

9. The words “攜有或藏有” in the statement are considered to be better alternatives to “管有” when conveying the meaning of “possession” in layman’s term. You may wish to note that the words “藏有” are also used as

the Chinese translation of “possession” or “possessing” in the following two pieces of subsidiary regulation:

- (i) Schedule 1 of the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405), where “possessing cannabis plant or opium poppy”(藏有大麻屬植物或鴉片罌粟) is included as an offence under Cap. 405; and
- (ii) Mines (Safety) Regulations (Cap. 285), section 80 (3) of which specifies that “no workman shall otherwise have intoxicating liquor in his possession whilst at work or at a place of work” (工人亦不得在工作期間或工作地方以其他方式藏有令人昏醉的酒類).

10. We should be grateful if you could relay the above to Members of the Subcommittee on Prevention of Copyright (Notices) Regulation which would scrutinize the Regulation on 23 February 2001. Subject to Members’ further views on the Regulation, we will move a motion in LegCo in accordance with section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) to amend the Regulation as set out in paragraphs 3,4 and 8 above.

(Philip Chan)
for Secretary for Commerce and Industry

c.c. D of J (Attn: Mr Vidy Cheung)
IPD (Attn: Ms Pancy Fung)
C&ED (Attn: Mr Vincent Poon)

SCHEDULE

[s.2]

NOTICE REQUIRED TO BE DISPLAYED
UNDER SECTION 31E OF THE ORDINANCE

警告
WARNING



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。

最高刑罰：

初犯 - 港幣\$5,000

再犯 - 港幣\$50,000 及監禁 3 個月

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

Maximum Penalty:

HK\$5,000 (first offence)

HK\$50,000 and 3 months' imprisonment (second and subsequent offences)