

Legislative Council Panel on Commerce and Industry

Copyright (Suspension of Amendments) Bill 2001

Purpose

This paper seeks Members' views on the draft Copyright (Suspension of Amendments) Bill 2001 at the Annex.

Background

Suspension

2. Certain criminal provisions in the Copyright Ordinance as they have been amended by the Intellectual Property (Miscellaneous Amendments) Ordinance 2000 ("the amending Ordinance") have caused worries and inconvenience to the community. In view of this, the Government has announced that it will, by legislative amendment, suspend the application of the amending Ordinance to the criminal provisions in the Copyright Ordinance in relation to -

- (a) works in the printed media, viz, newspapers, magazines, periodicals and books;
- (b) works in sound or television broadcast, or included in subscription cable television programmes; and

(c) works downloaded from the Internet,

subject to certain exceptions.

3. The suspension will mean that with respect to the works in paragraphs 2(a)-(c) above, the criminal provisions in the Copyright Ordinance will revert to the position before the commencement of the amending Ordinance.

4. The exceptions referred to in paragraph 2 are computer programs (in electronic form) and certain types¹ of sound recordings and films. The exceptions of sound recordings and films will apply to paragraphs 2(b) and 2(c). The exception of computer programs will only apply to paragraph 2(c). The types of work included in the exception list generally have substantial commercial value and piracy of these works in Hong Kong and elsewhere is rampant. The amending Ordinance, which has the effect of providing a higher level of protection, should continue to apply to these works.

5. After the enactment of the Bill, we shall consult non-governmental organizations, the copyright owners' industry, and various sectors of the community with a view to formulating a long-term solution to the problem. The suspension will remain in effect until a long-term solution is worked out. We will then introduce another Bill to make

¹ Those that contain a substantial part of musical work and related literary work, for example, music compact disc or MTV, as well as movies and television dramas.

further amendments to the law.

The Bill

6. **Clause 2(1)** provides that in relation to an infringing copy of a copyright work in a book, newspaper, magazine or periodical, or in a sound or television broadcast or a subscription cable television programme, or downloaded from the Internet, sections 118 and 120 (i.e. the criminal provisions) of the Copyright Ordinance shall apply as if the amending Ordinance had not been enacted.

7. **Clause 2(2)** puts it beyond doubt that the copyright works in **Clauses 2(1)(a) and (b)** comprise only works in printed form and include the typographical arrangement of a published edition and a printed version of a computer program. For example, a computer program stored in an optical disk attached to a magazine will be excluded, but a computer program printed in a magazine will be included.

8. **Clause 2(3)** excludes from the copyright works in **Clauses 2(1)(f) and (g)** movie or television dramas, or sound recordings or films the whole or a substantial part of which consists of a musical work and related literary works. That is to say, the Copyright Ordinance, as amended by the amending Ordinance, will continue to apply in relation to these types of work even though they are included in a television or sound broadcast, or in a subscription cable television programme, or are downloaded from the Internet.

9. Similarly, **Clause 2(4)** excludes computer programs from the copyright works in **Clause 2(1)(g)**. In other words, the Copyright Ordinance, as amended by the amending Ordinance, will continue to apply in relation to computer programs even though they are downloaded from the Internet.

Advice Sought

10. Members' views are sought on the draft Bill at the Annex.

Way Forward

11. Subject to Members' views, we intend to introduce the Bill into the Legislative Council to go through three readings in one sitting on 25 April 2001.

Commerce and Industry Bureau

April 2001