

Legislative Council Panel on Commerce and Industry

Proposal to License Stamper Manufacturers

Introduction

This paper seeks Members' support for the licensing of stamper manufacturing in Hong Kong.

Background

2. Stamper is a mastering disc used for the replication of optical discs. It is an essential tool in the illegal production of optical discs containing pirated copyright works such as computer software, music and films. For this reason, there are stringent legal provisions for the regulation of stampers.

3. Under the Copyright Ordinance, any person who makes, imports, exports, possesses or sells a stamper for making infringing copies of a copyright work will commit a criminal offence. The maximum penalty is a fine of \$500,000 and 8 years' imprisonment.

4. In addition, under the Import and Export (General) Regulations, the import and export of equipment for the production of a stamper require a licence. The maximum penalty for contravening the regulation is a fine of \$2 million and 7 years' imprisonment.

Manufacturing of stampers in Hong Kong

5. To strengthen our efforts to combat copyright piracy at the production level, we introduced new legislation - the Prevention of Copyright Piracy Ordinance ("the Ordinance") - in 1998 to regulate the manufacturing of optical discs in Hong Kong. Under the Ordinance, a person must obtain a licence for manufacturing optical discs in Hong Kong at the premises specified in the licence. In addition, all optical discs produced must be permanently marked with a code unique to each licensed manufacturer. Customs officers are empowered to inspect licensed plants without a warrant. The maximum penalty for manufacturing optical discs in Hong Kong without

a licence is a fine of \$1 million and 4 years' imprisonment. As of 19 June 2001, we have issued 83 such licences.

6. The existing licensing scheme applies only to the mass production of optical discs, but not the intermediary process of producing stampers¹. When the Prevention of Copyright Piracy Bill was examined by LegCo in 1998, we explained to LegCo that it was not necessary to introduce a separate licence for stampers, because at that time stampers were usually made at the same premises as the manufacturing of the end product, or imported.

7. However, the situation has changed since. According to Customs' records, there are 12 licensed optical disc factories with stamper making facilities in their premises, but an estimated 10 companies which are solely engaged in producing stampers.

8. The number of infringing stampers seized by Customs in the past four years are as follows -

Year	1997	1998	1999	2000
No. of infringing stampers seized	638	8393	3148	2357

There have also been a number of cases overseas where the infringing stampers seized were produced in Hong Kong.

Proposal

9. We propose to license stamper manufacturing in Hong Kong under the Ordinance. As with other optical discs produced in Hong Kong, stampers must bear a manufacturer's code. Customs officers will also be empowered to inspect stamper manufacturing premises without a warrant.

10. We further propose to set the licence fee for manufacturing stampers at the same rate as that for other optical discs, i.e. \$5,500 for a fresh licence valid for three years and \$1,270 for renewal. For licensed optical disc factories with stamper making facilities within the same premises, they may

¹ A stamper is also an optical disc under the Ordinance.

apply for amendments to their licence at no additional charge.

Consultation

11. We will consult the industry on the licensing conditions and the standards for stamper coding. According to the stamper industry, the Mastering Source Identification Code jointly developed by the International Federation of the Phonographic Industry and the Philips Consumer Electronics B.V. is the existing industry standard for stamper coding.

Financial and staffing implications

12. The additional workload will be absorbed by Customs within its existing resources.

Way Forward

13. Subject to Members' support, we will amend Schedule 1 of the Ordinance by including stamper in the schedule.