

REVISED DRAFT

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COMMITTEE STAGE

Amendments to be moved by the Secretary for Commerce,
Industry and Technology

<u>Clause</u>	<u>Amendment Proposed</u>
1(2)	By deleting "Secretary for Commerce and Industry" and substituting "Secretary for Commerce, Industry and Technology".
3	In proposed section 35A – (a) in subsection (2)(b), by deleting "subsection(3)" and substituting "subsections (3), (3A) and (3B)"; (b) by deleting subsection (3) and substituting – “(3) A copy of a work <u>feature film</u> that is embodied in an article is not a copy of an associated work for the purposes of subsection (2) if the work is a film of the kind commonly known as a movie and if the copy – (a) <u>the copy is a copy of the movie</u> a feature film in its entirety or substantially in its entirety; or (b) <u>where the copy is a copy of a part of a feature film</u> the movie (not being a part to which paragraph (a)

applies), and –

- (i) ~~that part~~
~~together with~~
~~all other parts~~
~~of the movie~~ all
those parts of
the feature film
copies of which
are embodied in
the article
together
constitute the
feature film
~~movie~~ in its
entirety or
substantially in
its entirety; or
- (ii) ~~the duration of~~
~~that part~~
~~together with~~
~~all other parts~~
~~of the movie~~
the viewing
time of all those
parts of the
feature film
copies of which
are embodied in
the article ~~when~~
~~viewed (as~~
~~embodied in the~~
~~article)~~
constitute is
more than 15
minutes in
aggregate.

(3A) A copy of a ~~work~~
television drama that is embodied in an
article is not a copy of an associated work
for the purposes of subsection (2) if the

~~work is a film of the kind commonly known as a television drama and if the copy –~~

(a) ~~the copy is a copy of the a television drama in its entirety or substantially in its entirety; or~~

(b) ~~where the copy is a copy of a part of the a television drama (not being a part to which paragraph (a) applies), and –~~

(i) ~~that part together with all other those parts of the television drama copies of which are embodied in the article together constitute the television drama in its entirety or substantially in its entirety; or~~

(ii) ~~the duration of that part together with the viewing time of all other those parts of the television drama copies of which are embodied in the~~

~~article when viewed (as embodied in the article) constitute is more than 10 minutes in aggregate,~~

and in paragraphs (a) and (b)(i), reference to a television drama, in the case of a television drama comprising one or more episodes, means is a reference to an episode of the television drama.

(3B) A copy of a ~~work musical sound recording~~ that is embodied in an article is not a copy of an associated work for the purposes of subsection (2) if the ~~work is a musical sound recording or a musical visual recording, and the~~ economic value of the article is predominantly attributable to =

_____ (a) the economic value of the copy, ~~or to the combined economic value of all such copies,~~ as embodied in the article."; ~~or~~

_____ (b) where copies of more than 1 musical sound recording are embodied in the article, the combined economic value of all such copies, as embodied in the article.

(3C) A copy of a musical visual recording that is embodied in an article is not a copy of an associated work for the

purposes of subsection (2) if the economic value of the article is predominantly attributable to –

_____ (a) the economic value of the copy, as embodied in the article; or

_____ (b) where copies of more than 1 musical visual recording are embodied in the article, the combined economic value of all such copies, as embodied in the article.";

(c) in subsection (4) –

(i) by deleting in the definition of "feature film";, by deleting everything after "a film" and substituting "of the kind commonly known as a movie;";

(ii) in the definition of "musical visual recording", by adding "the sound-track-accompanying" after "part of"; deleting everything after "film" and substituting "with an accompanying sound-track, the whole or a predominant part of which sound-track consists of a musical work and any related literary work;";

(iii) by adding –

_____ "television drama" (電視劇或電視電影) means a film of the kind commonly known as a television drama."

(iiiiv) in the Chinese text, in the definition of "音樂聲音紀錄", by deleting the semicolon and substituting a full stop.

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(a) In proposed section 118A(1), by deleting", section 60 and 61 have effect subject to the following modifications, namely",

(b) By deleting proposed section 118A(1)(a) and substituting –

"(a) a person is a lawful user of a computer program for the purposes of in sections 60(2) and 61 if he has a, for the passage "contractual right to use the program" shall be substituted the passage "contractual right to use the program in any place in Hong Kong (including in a limited part of Hong Kong) or in a place or outside Hong Kong";, and" section 60(2) shall have effect accordingly; and".

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(a) In proposed section 199A(1), by deleting the definition of "copy of an associated work" and substituting –

""copy of an associated work" (有聯繫作品複製品) has the same meaning as in section 35A;"

(b) In proposed section 199A(2), by deleting "no proceedings for an offence under section 118(1) committed before that commencement shall be instituted or continued" and substituting "no person shall be liable to conviction for an offence under section 118(1) committed before that commencement".

(c) In proposed section 119A(3), by deleting "no proceedings for an offence under section 118(1) committed before that commencement shall be instituted or continued" and substituting "no person shall be liable to conviction for an offence under section 118(1) committed before that commencement in either of the following cases, that is to say".

(bd) In proposed section 199B(1), by deleting the definition of "copy of an associated work" and substituting –

""copy of an associated work" (有聯繫作品複製品) has the same meaning as in section 35A;"