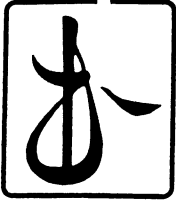


香港圖書館協會



HONG KONG LIBRARY ASSOCIATION

P.O. BOX NO. 10095, GENERAL POST OFFICE, HONG KONG.

Our Ref: LO/HKLA

16 June 2003

Clerk to Bills Committee  
Legislative Council Secretariat  
Legislative Council Building  
8 Jackson Road  
Central  
Hong Kong

Dear Sir,

Representing the Hong Kong Library Association, I would like to make comments on two areas of the bill:

**1. Removal of end-user criminal and civil liability in relation to parallel-imported copyright works [Clauses 2 & 3 of the Bill]**

Insofar as library activities are concerned, lifting the bans is a welcome move as libraries will have more choices in the availability of products, at more competitive prices and more timely acquisitions otherwise not possible with the prevailing restrictions on parallel importation.

**2. Arrangements under the Copyright (Suspension of Amendments) Ordinance 2001 whereby criminal sanctions for the use of pirated copies of copyright works is confined to only the Four Categories of Works (computer programs, movies, TV dramas, and musical recordings) to be made permanent**

While the decriminalizing of copyright is a welcome change, the Ordinance fails to address on number of areas which members of the Library Community have previously indicated needed change. The bill remains silent on:

a) scope of fair dealing

Arguments\* from the library/education section about the restrictiveness of the fair dealing exemption under the existing Copyright Ordinance are not addressed in the Bill [\* e.g. expanding the scope of fair dealing, adopting the open-ended US model of fair use, allowing reprographic copying for classroom use whether or not there are licensing schemes available, etc.].

b) Regulating licensing bodies

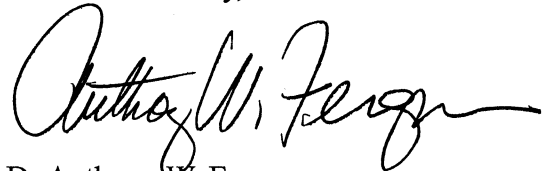
Again previous arguments on the need for compulsory registration and government regulation of licensing bodies are not addressed. The document "Review of Certain Provisions of the Copyright Ordinance" issued for the Legislative Council Panel on Commerce and Industry in Jan 2002 [http://www.legco.gov.hk/yr01-02/english/panels/ci/papers/ci0204c\\_b1-953-3e.pdf](http://www.legco.gov.hk/yr01-02/english/panels/ci/papers/ci0204c_b1-953-3e.pdf) states that "Compulsory registration of licensing bodies has considerable technical and resource implications while the benefits will be relatively small", and that voluntary registration and development of voluntary codes of practice are to be encouraged. It is apparent that the government stance at present is not to introduce such an arrangement. The Government needs to recognize this sort of reliance reflects neither reality nor the need to encourage scholarship. Reliance upon licensing bodies may seem like an easier fix for the government, for Hong Kong's educational community, it is a great disservice.

- c) Electronic/digital copying within the ambit of web-based education, distant learning & IT for education

Notwithstanding the efforts of the Intellectual Property Dept now to develop non-statutory Guidelines for Copying and Distribution of Works in an Electronic Environment by Not-for-profit Educational Establishments (expected to be released in fall 2003), these fast changing areas in teaching and learning, and the provision of information services are not addressed in the Bill.

Members of the Association stand ready to confer with representatives of the Government.

Yours sincerely,



Dr Anthony W. Ferguson  
President (2003 – 2004)  
Hong Kong Library Association

AWF/mmy

cc: Miss Lucinda Wong  
Miss Irene Shieh