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Legislative Council
Hong Kong Special Administrative Region of the People's Republic of China
Attn: S C Tsang, for Clerk to Bills Committee
Via e-mail to: shiu@legco.gov.hk

Dear Mr/Ms. Tsang

Thank you for your letter dated July 16, 2002 and the Chairman's kind invitation to appear before the Bills Committee during its meeting on September 16th. Although in this case we must respectfully decline the invitation to appear in person, we are nonetheless pleased with the opportunity to provide you with MPA's views on the Copyright (Amendment) Bill 2001. Our understanding is that the bill proposes to remove the civil and criminal liabilities related to parallel importation of and subsequent dealings in computer software under the Copyright Ordinance (Cap. 528).

As the Council is aware, MPA's member companies are major international producers and distributors of theatrical motion pictures, home video entertainment, television programs, and digital representations of moving images and sounds. Inasmuch as our member companies' products fall outside of the scope of the proposed amendments, our primary concern is the maintenance of this distinction and the avoidance in the future of any unintentional precedence these amendments might convey if applied to other categories of copyrighted works.

We have previously detailed for the Council our industry's specific business practices, including sequential release patterns of our member companies' products in a variety of formats, and discussed the deleterious effects imposed by unauthorized parallel importation. Because these practices require that our member companies maintain full control over both the commercial distribution as well as the public exhibition or performance of their products, it is important that any subsequent amendments to the Ordinance permitting the parallel importation of audiovisual works by end users be appropriately restricted.

The present scope of Copyright (Amendment) Bill 2001 –which permits parallel importation of *and subsequent dealings in* computer software (emphasis added) – is thus too broad for corollary application in the future to other categories of works, such as motion pictures or television programming signals. MPA is gratified by assurances received from the Commerce and Industry Bureau that criminal and civil liability for both parallel importation and possession for the purpose of selling parallel imported copies of copyrighted works would remain unchanged (except for computer software). The Bureau has further confirmed that under its future proposal, the act of performing a film in public will remain a restricted act requiring the permission of the right holder regardless of the source of the film's origin.

We trust that the Bills Committee will recall these important distinctions during its upcoming and future deliberations and remain we available for any further information or views that might be requested. We thank you again for the kind opportunity to have participated and look forward to cooperating with you in the future.

Sincerely,

Frank S. Rittman