



30 September 2002

By Facsimile and E-mail

Ms. Connie Szeto
Clerk to Bills Committee
Legislative Council
Legislative Council Building
8 Jackson Road
Central, Hong Kong

**Re: Bills Committee on Copyright (Amendment) Bill 2001
Concerning Proposal to Liberalize Parallel Importation
of Computer Software**

Dear Ms. Szeto:

Thank you for your letter dated 17 September 2002 concerning the above-referenced matter.

During the Bills Committee meeting on 16 September, a question was raised with respect to the possible impact, if any, of Intellectual Property (Miscellaneous Amendments) Ordinance 2000 on the prices of computer software in Hong Kong. There was also discussion concerning whether the proposed liberalization of parallel importation of computer software would result in lower prices for software products.

As discussed in our previous submission and also at the 16 September hearing, the Business Software Alliance understands that its members generally apply universal pricing for individual products to distributors around the world, and that differences in the price of a particular product from market to market are for the most part due to the differences in the cost of doing business in different markets (e.g., advertising, distribution, storage) and differences in margins for resellers and distributors from market to market. Like other companies, BSA members cannot control the price of their products once they are in the distribution channel. One should not assume, therefore, that

allowing parallel importation of software will have a significant affect on the price of software to consumers.

At the 16 September hearing, BSA was asked to provide further information if possible, specifically with respect to any significant fluctuations in software prices during the period from April 1, 2001 until the present. As an industry association, the BSA is not in a position to make representations on behalf of any individual member company concerning the price of that company's products or any other issues specific to that company.

Nonetheless, in an effort to be responsive, following the hearing the BSA conducted an informal survey of its members in Hong Kong. While the BSA makes no representations concerning the accuracy of the information provided, those members who responded reported that since April of last year they have not made any significant changes to the prices they charge distributors for their software products in Hong Kong. Where prices to distributors have fluctuated, members indicated that these changes (1) were not specific to the Hong Kong market but rather were applicable to other markets in which the particular products are sold; and (2) were based upon such factors as product functionality (e.g., prices of newer products might reflect enhancements, additional features, etc.). There were anecdotal reports of shortages of some types of software leading up to and immediately following April 1, 2001, which may have caused prices in the market to rise at the time, but we understand that those shortages were quickly addressed by software vendors.

We hope this information will be useful to members in their deliberations. If the Bills Committee is aware of specific instances involving major price fluctuations for particular products, the BSA might be able to assist in coordinating with individual member companies to provide further information if it is available.

Sincerely,



Jeff Bullwinkel
Vice President

Business Software Alliance

cc: Hon. SIN Chung-kai , Chairman
Legislative Council Bills Committee

Kenneth Mak, Deputy Secretary
Commerce, Industry & Technology Bureau