



**Interactive
Digital
Software
Association**

October 17, 2002

BY HAND DELIVERY

Ms. Laura Tsoi
Assistant Secretary for Commerce, Industry and Technology
Level 29, One Pacific Place
88 Queensway
Hong Kong

RE: Comments on the Copyright (Amendment) Bill 2001

Dear Ms. Tsoi:

I am the President of the Interactive Digital Software Association (IDSA), the U.S. trade association serving the needs of companies that publish interactive games for videogame consoles, handheld devices, personal computers, and the Internet. I am writing in response to the request which you sent to a number of parties on September 19, seeking their views on the Copyright (Amendment) Bill 2001.

IDSA and its members are deeply concerned that, as it is currently drafted, the legislation may sweep too broadly, to the extent that it would impair the ability of copyright owners to control parallel importation of videogames and other entertainment software into Hong Kong. Such an action would be ill-advised and would have a negative impact on the development, publishing and marketing of such products in Hong Kong, and on overseas investment in these sectors. Accordingly, I urge you to clarify the language of the bill to ensure that Hong Kong retains its current restrictions on the unauthorized parallel imports of videogames and other entertainment software.

Removing parallel import protection for videogames and other entertainment software would threaten serious negative effects on the growth of this industry in Hong Kong. Increases in the prevalence of piracy and counterfeiting of videogame product, a well-documented phenomenon in other markets after the removal of parallel import protection, could certainly be expected. The position of licensed distributors of these products in Hong Kong would be seriously undermined, and investment in the development of new videogames and entertainment software in the SAR would be discouraged.

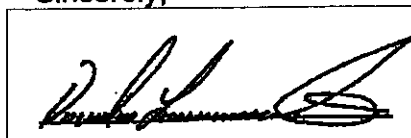
The pending legislation excludes from its purview feature films and sound recordings. A comparison of the markets for these products with those for videogames and entertainment software products, such as those published and distributed by IDSA member companies, reveals a number of compelling

similarities. Like movies, televisions dramas, and musical recordings, videogames and other entertainment software are generally consumed by individuals for the purpose of personal entertainment or education, not as a tool to increase productivity in a trade or business. (For this reason, one of the stated motivations for the legislation – to ease the financial burden on small and medium sized business enterprises of replacing their pirated business software with legitimate products to comply with new end user criminal provisions – is almost entirely inapplicable to consumers of videogames and entertainment software products.) Marketing practices in our sector, with respect to issues such as localization, timing of release in different markets, and international market segmentation, are also more like those of other entertainment industries than they are like business software applications. These well-established marketing and distribution practices, like those of the film and recording industries, would be disrupted if parallel importation restrictions on videogame and entertainment software products were eliminated in Hong Kong.

We urge you and Hong Kong's legislators to take steps to prevent the undesirable outcomes summarized above. This can be accomplished by inserting into the legislation a proviso that videogames and other entertainment software are not subject to the provisions of Section 35A. That simple addition will avoid major detrimental consequences which, while they may not have been intended by the legislation's authors, could ensue if the bill is not amended to retain restrictions on the parallel importation of videogames and entertainment software products into Hong Kong.

Thank you for the opportunity to provide our views on this important issue.

Sincerely,

A rectangular box containing a handwritten signature in black ink. The signature is cursive and appears to read "Douglas Lowenstein".

Douglas Lowenstein, President
Interactive Digital Software Association

Cc: Ms. Connie Szeto
Clerk to Bills Committee
Legislative Council
Legislative Council Building
8 Jackson Road
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