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Ms. Laura Tsoi, ^{V 15/10}
 Assistant Secretary
 for Commerce, Industry and Technology
 Level 29, One Pacific Place,
 88 Queensway, Hong Kong

By Fax & Post
 2869 4420

Dear Ms. Tsoi,

RE: Copyright (Amendment) Bill 2001 - Consultation with the game industry

Thank you for your email of September 19, 2002, enclosing the Legco Brief (Ref: CIB 07/09/6), and seeking views from the computer games industry on the Copyright (Amendment) Bill 2001.

Alta Multimedia Ltd. (Alta) is one of the largest "home" computer software distributor and licensee in Hong Kong, covering games, education, productivity & reference software generally designed for home use. The company currently represents labels such as: Acclaim, Activision, Dorling Kindersley, Guildhall Leisure, Nightingale, Nova Logic, The Learning Company, and Vivendi Universal Games (incl. Blizzard & Sierra). While the company has only been established since 1998, its key management and many staff members have been in this business for approximately 10 years.

In reference to the Legco Brief (Ref: CIB 07/09/6) attachment, we have the following views:

1. Alta intensely opposes the removal of the current restrictions on parallel importation. The financial implications to small and medium sized distributors such as ourselves will be devastating.
2. There is currently a wide choice of products in the market, and prices have dropped continuously over the last several years.
3. Removal of the current restrictions on parallel importation will promote software piracy.
4. With current technological advances, it will increasingly be difficult to clearly separate the three formats, namely computer software, movies and music.

Our rationale in support of the above viewpoints:

1. In order to secure sole distribution rights from overseas publishers, distributors/licensees typically are required to do several things: commit to a certain sales quantity, stock less popular titles of the publisher's to satisfy niche consumers, commit to an amount to be spent on advertising and promotion, as well as provide

after-sales technical support service to the various software titles. This commitment exercise is done generally on an annual basis. Most of these investments are made upfront and the only way a distributor is able to recoup such investment is through sales of the software.

On the other hand, parallel importers are opportunistic traders and they are not subject to any of these risks & costs; they simply obtain a "free-ride" based on the distributor's marketing efforts. As a result, parallel importers are able to work on extremely thin margins, which to the sole distributor is insufficient to cover even the basic marketing expenses.

Distributors will indeed be subjected to stronger competition from parallel importers and likely to a point where it no longer is financially viable to secure these sole distributorships. The consumer stands to lose at the end since no one company will stock the publisher's full line of products, thus reducing choice; nor will there be a company to provide after-sales technical support. Alta rejects the statement under paragraph 32 that states that the impacts to licensees and distributors should not be significant. Perhaps not to the author of this brief, but it will in fact be financially devastating. Official licensees/distributors will not be able to sustain viable businesses if their sales are continuously compromised by parallel importers.

Alta was established in the recessionary days of 1998 based on the then new copyright legislations that were introduced in 1997, and calls by the Government on Hong Kong people to set up their own businesses. Just as the company has attained a firmer business foundation after a very difficult 4 years, the company is at a loss as to why the Government is introducing such new destabilizing legislations.

2. There is a wide choice of entertainment, education, productivity & reference software products on the market today. Prices on the other hand have dropped substantially over the last several years. In general terms, where an item was selling at HK\$250 in the past, the same product in a newer version can be purchased at a third to half the price today. The industry in an effort to combat the rampant software piracy in Hong Kong has strived to lower prices itself and it has successfully achieved this to the benefit of consumers.
3. Piracy will further flourish when restrictions on parallel imports are lifted. When challenged, pirates will falsely claim that their illegal products are parallel imports from other countries. It will then be up to the licensee/distributor to prove that it is not the case. However this is in reality a long and costly legal exercise that will require substantial documentation & even expert witnesses from the licensor to refute such claims. Licensees/distributors typically will not possess the resources necessary to confront these claims on an on-going basis. This is in fact the predicament that the industry faces today, and hence the rampant piracy problem that exists in Hong Kong.
4. With current & continuing technological advances, there is already underway a convergence of software, music and movies into the same optical disk; and increasingly it will be difficult to distinguish which is what. The proposed provision of a 20 minutes exemption appears arbitrary, and with exemptions will come loopholes. Alta believes that a clear separation of these 3 formats will be a

challenging task and passing legislation on such changing technology will render the eventual legislation confusing and ineffective.

Alta does not believe the proposed amendments will result in the objectives stated in the proposal for the "home" computer software industry.

Yours sincerely,



Russell Yeh
Managing Director

cc: Hon SIN Chung-kai
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IPD (Attn : Ms Pancy Fung)
D of J (Attn : Mr Jonothan Abbott, Mr Sunny Chan)
C&ED (Attn : Mr Y K Tam)