



INTERNATIONAL
FEDERATION OF
THE PHONOGRAPHIC
INDUSTRY
[HONG KONG GROUP]
LIMITED

國際唱片業協會(香港會)有限公司

28th November, 2002

Clerks to Bills Committee
Legislative Council
Legislative Council Building
8 Jackson Road
Central, Hong Kong

Dear Sir/Madam

**Re: Liberalisation of Parallel Importation of Computer Software Copyright
(Amendment) Bill 2001**

On behalf of members of the IFPI (Hong Kong Group) Ltd, I wish to present our opinion on the captioned subject.

We would be pleased to answer any queries in respect of our submission.

Thank you for your kind attention.

Yours truly,
For and on behalf of International Federation of the
Phonographic Industry (Hong Kong Group) Limited

A handwritten signature in black ink, appearing to read 'Ricky Fung', written over a large, loopy circular flourish.

Ricky Fung
Chief Executive Officer



27th November, 2002

Mr Kenneth Mak
Deputy Secretary for Commerce, Industry & Technology
Level 29, One Pacific Place
88 Queensway
Hong Kong

Dear Mr Kenneth Mak,

Liberalisation of Parallel Importation of Computer Software Copyright (Amendment) Bill 2001

This submission is made in furtherance of our earlier submissions and the subsequent discussion on the issues raised therein and also is made in response to the development in the last Bills Committee meeting in which it raises a concern as to whether the scope of liberalisation should cover other copyright work.

We would like to clarify and to comment as follows:-

1. There is no disagreement that the provisions relating to the restriction of parallel importation of sound recordings and films remain unchanged. The present proposed amendment relates only to liberalise the parallel importation of computer programs and we shall not lost our focus on that issue.
2. The computer programme (which includes multimedia application) provides a new technology of communication of the copyright works to the public.
3. The computer programme developer is fully aware that it is the content not the computer programme itself which determines the degree of acceptance of the programme by the endusers eventually.
4. The content providers are careful in selecting the right platform for exploitation of their copyright works.
5. In short, computer programme, sound recordings and films are different classes of works, the copyright of which are, very often than not, owned by different proprietors.
6. The developer of the computer programme must obtain licence from the relevant copyright owners if other works are to be included in the computer software for sale.
7. The present position of the record industry is that they are now moving to the new age of multimedia and they will try to select whatever formats or platforms which suit their business model best in order to capitalise the commercial opportunity presented by this new technology.

8. In short, the copyright owners of the other copyright works (sometimes known as the content provider) have the right to determine as to when and how their works are published and/or communicated to the public.
9. As usual, the copyright owner or developer of the computer programme will have to secure the necessary licence or right for incorporation of any copyright works such as feature films or musical sound recordings or musical visual recordings.
10. If certain exceptions, at the expenses of the local industry but for the benefit of the computer programme importers, were to be allowed as proposed, this would act as a strong deterrent to local industry to try different technology platforms or models of communication in overseas market. This will hamper our development of the knowledge based economy here in Hong Kong which we have tried very hard to develop.
11. As mentioned earlier, all the concerns as raised by the administration are speculative, we, therefore, venture to propose that the present amendment shall only focus on the computer programme itself and not further, we will revisit the amendment in a few years time if there is a genuine need to do so.

If we may be of any further assistance on this subject matter, please do not hesitate to contact us.

Yours truly,
For and on behalf of the International Federation of the
Phonographic Industry (Hong Kong Group) Ltd

Ricky Fung
Chief Executive Officer

c.c. Bills Committee – LegCo
IFPI HKG Committee
IFPI Asian Regional Office