

We are a film distributor distributing mainly Hollywood movies and have been in business for over six years.

In regard to the Consultation Document for Review of Certain Provision of Copyright Ordinance published by the Commerce and Industry Bureau in October 2001, we would like to express our views on Chapter 5 – Parallel Importation of Copyright Works other than Computer Software as follows:

We are of the opinion that:

- (a) The civil liability and criminal sanction against parallel importation of and subsequent dealing in all types of copyright work should not be removed, and there should be no exception.
- (b) The criminal sanction against parallel importation of and subsequent dealing in some types of copyright work should continue and the 18-month threshold should not be reduced.

Our reasons as specific to the film distribution industry can be summarized as below:

- (i) Parallel Import destroys the practice of “window system” of the movie industry  
The movie industry employs a window system in releasing a movie in different formats. As a movie has different first release dates in different countries, opening of parallel importation would practically destroys such window system. Film distributors would tend to limit their distributions to films that can secure a same release date as in the United States, thus narrowing the number and choices of movies available. As the total box office decreases, many movie related business e.g. cinemas, advertising agents, media and their employees will be affected.
- (ii) Parallel Import opens door to pirate movie and video products  
If parallel importation of movie and video products is to be legalized, consumers will find it difficult to distinguish genuine ones from counterfeits and pirates. It will well invite more counterfeit and pirate products under the disguise of imported goods, which is in contradiction to the determination of the Government to fight against piracy.

- (iii) Parallel Import prohibits investments  
Investors will only produce and distribute movies in a healthy economic environment with reasonable return. The unfair competition to be brought by opening of parallel import destroys such an environment.
  
- (iv) Parallel Import destroys the ecological environment of the movie industry  
As a movie exporting territory, there should be enough protection for the ecological environment of the local movie industry for its survival and development, so that it will continue to create wealth, supply employment and training opportunities for the local people. Opening of parallel import destroys such an environment.
  
- (v) Opening of Parallel Import is not a global phenomenon  
Statistics from IFPI shows that most of the countries in the world prohibit or regulate parallel importation of movie and music products. It is understood that all these countries promote free trade but regulate parallel importation as only in this way can they allow investors an appropriate trading environment to invest in and promote local music and movie industries.

We strongly believe that the existing laws are sufficient to protect consumers and there is no need to open parallel importation.

Peter Yau  
Executive Director  
Era Films (HK) Limited