

September 15, 2005

Commerce Industry and Technology Bureau
Fax 2869 4420
Re: CIB CR 07/09/16

Dear Sir

**Opposing the proposed discrimination against Private and Commercial Sector
on Copyright Ordinance Amendment**

Further to your circular on proposed amendment to Copy Right Ordinance, I am writing to express my viewpoints:

- a reasonable percentage of copying for educational use should continue to be allowed (whether for profit or non-profit making).
 - Government / legislators should NEVER make a stance to discriminate profit from non-for-profit organizations (a crime is a crime, not because of its race, education, organizational status.....).
 - Indeed, many staff of non-profit organization MAKE PROFIT from their activities as employees or profit on the connection made..... *Profit Making is the foundation of this modern world where Hong Kong built her prosperity upon, and the Government should NEVER act to undermine the core foundation and the noble spirit of our society -- the desire to drive for individual profit that help propel mankind progress and prosperity -- and what have made Hong Kong success*
- Whenever activities can be undertaken by profit making organizations, those carrying the umbrella as Non-Profit Making should give way or be regulated or -- Government, as itself as the largest non-profit organization, only engages in business / market when there is no viable private sector willingness to participate.*
- Balance between copying vs education and information flow -- educational purpose for schools as well as in-company staff development should be treated as the same. However the process should be limited to a small percentage of a

"commercial product with a price tag" (eg. Books, newspapers)

- Small quantity of photocopying Internet based information for education purpose: it should be allowed (subject to quantity limit) provided the copyright owner does not place a "price tag/purchase requirement" – ie do NOT make its publication a 'commercial product', else a reasonable standard same as books and newspaper should be allowed

- Definition of copying – at least four levels:
 - A) Copying in similar format and at similar quality with a purpose to fully replicate the appearance, content, functions and value (eg. Pirated software, books) with a purpose to resell the product as a pirated product (with brand infringement)

 - B) Copying in similar format and at similar quality with a purpose to fully replicate the appearance, content, and value (eg. Software.....) with a purpose to resell the product (but as an inferior quality with brand infringement – ie an unbranded clone)

 - C) Copying for internal use without intention to sell it as end product nor to replace the function of an authentic product – eg. Evaluation copy

 - D) Part copying for internal use without any possibility to sell it as an end / complete product / use it as a complete product (part of newspapers/magazines)

I propose D) should definitely be allowed for general education purposes as well.

Law rules on fairness, viability and the extend of damages/benefits produced to individuals and society. **I STRONGLY protest to your intention to drafting laws that discriminate different types of organization – a crime is a crime, regardless of who commit it.**

I cannot make sense why non-profit and government subsidized education institutions are exempted in your proposal (are you subsidizing them once again ?) *For the convenience of teaching – so called, should be to the public or whoever doing the profession legally.* Your mindset would naively lead to future proposal of extending

FROM: ABRS

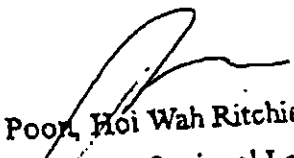
further outrageous privilege to a small circle of superpower.

In particular, your bureau, with its name, should be *Pro-Business*, not anti-business (unless you prefer Hong Kong being filled with non-profit / government owned companies) - I am surprised and shame of the proposed discrimination.

Let us separate charity and donation from business and crime. If the copyright owner wish to donate and grant free-use to whatever organization, it should belong to his/her free will, NOT the legislator or government. Should next then the law also extend to "Pro-government" organizations or SME or Hong Kong registered companies? Where is the stop sign?

Please respect free will (of the copyright owner) and free market (the need to compete in level field). Please try NOT to impose your will on the copyright owners, if you think they own it at all.

Restore Hong Kong to what it was - A Free and Open Market, Business Friendly with Minimal Government Intervention.


Poon, Hoi Wah Ritchie
ABRS Professional Learning Services

Cc: Hong Kong Computer Society
Hong Kong Federation of Private Education Institutes
Hong Kong Information Technology Federation
The American Chamber of Commerce
The Australian Chamber of Commerce
The British Chamber of Commerce
The Chinese Chamber of Commerce
The South China Morning Post
Hong Kong Economic Times