

A Submission to

The Bills Committee on Copyright (Amendment) Bill 2006

by

The Hong Kong Institute of Education

In a plural society, it is the role of the government to find and maintain a healthy balance for the diverse interests within the society. In matters pertaining to the intellect, at least three kinds of legitimate interests need to be balanced, viz., those whose creative labour produced works of value to the community, members of the community who make use of such works for their edification or enjoyment, and those whose business it is to connect the other two interests.

For the creators and users of the intellectual products, the interests are social, cultural and spiritual as well as economic. While it is important to ensure that the intellectual producer reaps the economic benefits of her/his labour, we need also to bear in mind that the urge to find answers, to quest for excellence, to express oneself and to communicate one's deeply felt concerns with others are at least as much the motivation behind intellectual work as the desire for monetary returns. The producer's interest in the intellectual product is not just a matter of property rights, but also of communication rights.

The right to communicate is the mutual interest of the producer and user of an intellectual product. In a knowledge society, where the quantity, diversity and ever-innovating varieties of intellectual products characterize education, job training, employment and entertainment, the maximal availability and affordability of intellectual products is a vital need both for the users of such products and for society at large.

Unlike the producers and the users, whose broad ranging interests have artistic, scholarly, spiritual and affective dimensions as well as economic ones, those who play a connecting role between the two tend to have more closely defined economic interests---be they engaged in legitimate publishing businesses or in piracy. Legitimate publishers have made the financial investment, and taken the risk, for the products to enter the marketplace, to be available for the user; they also guarantee the producers a share of the proceeds. For their contributions, they have every right to expect appropriate returns. The pirates, on the other hand, steal from both the producers and the publishers, and encourage in some users the unreasonable expectation of irresponsible consumption. They definitely need to be curbed.

Much of copyright legislation is directed at protecting the economic interests of the legitimate publishers (and indirectly the producers) against the pirates. While the aims are worthy, the attention is often too narrowly focused. Protecting intellectual property rights overwhelmingly could restrict intellectual communication rights. Such

imbalance would hurt not only the users but also the producers, and ultimately the ongoing development of the intellectual community as a whole, to the detriment of education and the economic and cultural life of the knowledge society.

Universities, as major communities of both producers and users of intellectual products, have a vital interest in seeking and maintaining a balanced approach to copyright legislation and policy. The Hong Kong Institute of Education, being responsible for the professional education of most of Hong Kong's future teachers, shares the concerns of our sister universities as well as those of the secondary and primary schools and kindergartens. While my colleagues from the Heads of Universities Committee Task Force on Copyright in Education, as well as our friends from the broader education sector, will present their views on the technical details of the Bill, may I give the support of the Hong Kong Institute of Education to the government proposals before this Bills Committee: these proposals represent a significant and valuable effort to restore some of that balance which will be beneficial to Hong Kong's continued growth as a knowledge society and an education hub.

Thank you.