

香港特別行政區政府
工商及科技局
工商科



COMMERCE AND INDUSTRY BRANCH
COMMERCE, INDUSTRY AND
TECHNOLOGY BUREAU
GOVERNMENT OF THE HONG KONG
SPECIAL ADMINISTRATIVE REGION

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14 July 2006

Ms Kitty Cheng
Assistant Legal Adviser
Legal Service Division
Legislative Council Secretariat

Dear Ms Cheng,

Copyright (Amendment) Bill 2006

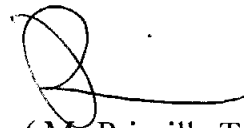
I refer to your letter dated 29 June 2006.

The fair dealing proposal seeks to introduce more flexibility for the Legislative Council and the Judiciary and should not affect the existing exemption enjoyed by these institutions. Section 37(5) of the Copyright Ordinance (Cap. 528) stipulates that the permitted act provisions under Division III of Part II of the Ordinance are to be construed independently of each other, so that the fact that an act does not fall within one provision does not mean that it is not covered by another provision. Hence, we do not consider it necessary to put the part in the new section 54A relevant to the Legislative Council and the Judiciary under section 54 and to add words to the effect that the new provision is without prejudice to the existing section 54.

The intention of the proposed section 118(2A) is that a person commits an offence if he, without the licence of the copyright owner of a copyright work to which that subsection applies, possesses an infringing copy of the work for the purpose of or in the course of any trade or business with a view to its being used by himself or any other person for the purpose of or in the course of that trade or business. To make the intention clearer, we will consider amending this section by changing the words "by any person" to "by

himself or any other person" in the English version, and "某人" to "該人或任何其他人士" in the Chinese version.

Yours sincerely,

A handwritten signature in black ink, consisting of a large, stylized loop followed by a horizontal line extending to the right.

(Ms Priscilla To)

for Secretary for Commerce, Industry and Technology