



HONG KONG RETAIL MANAGEMENT ASSOCIATION
香港零售管理協會

30 January 2007

Ms. Priscilla To
Principal Assistant Secretary for
Commerce, Industry and Technology
Commerce, Industry and Technology Bureau
Government Secretariat
Level 29, One Pacific Place
88 Queensway, Hong Kong

(by fax 2869 4420 & mail)

Dear Ms. To,

Proposed Amendments to the Copyright (Amendment) Bill 2006

On behalf of the Hong Kong Retail Management Association ("the Association"), I write to present the concerns of the Association about the latest developments of the captioned Bill as follows.

1. End-user Criminal Liability

The Association supports the Government's proposal of maintaining the existing scope of business end-user criminal liability regarding possession of infringing copy for use in business, namely, in the four categories of copyright works, including computer programmes, movies, television dramas and musical recordings.

2. New Business end-user criminal offence

The Association objects the introduction of a new criminal offence for the making or distribution of copyright infringing printed works, even though there is a "safe harbour" provision in the Bill.

It is the business reality today that organizations would make photocopy of newspaper/magazine articles for internal sharing of information and to inform

up-to-date reference amongst members within an organization while without the intention of infringing the copyright, or generating monetary gains out from such acts.

We do not see there are strong justifications for imposing extra criminal sanctions against these genuine business activities. Under the prevailing legal framework, we believe there are already sufficient channels for copyright owners of printed work to claim financial loss caused by copyright infringement.

The enforcement of additional legal punishments to unauthorized copyright users under aforesaid circumstances would deter free flow of information, ease of idea exchange, and delay business decision process, which would in turn impede the transformation of Hong Kong into a knowledge-based economy. We urge the Government to remove the proposed criminal offences on such acts from the Bill.

3. Company Director's/Partner's Criminal Liability

The Association objects that the director/partner of a company is presumed to have committed the same offence and held criminally liable if the company is found to have done an act attracting business end-user criminal liability.

Most of the companies in Hong Kong are SMEs, and it is a fact that they are facing limitations in terms of resource and expertise knowledge about copyright infringements. The imposition of criminal liability on the part of directors would make them legally vulnerable in cases of unwilful, minor, non-revenue related copyright infringements, and this will certainly impede the normal operation of businesses, ultimately, damaging Hong Kong's acclaimed entrepreneurship and deterring investments.

4. Shortening of ban on parallel imports of copyrights works.

The Association supports the shortening of ban on parallel imports of copyrights works, and ultimately with the proposal of the total phasing out of the criminal sanction on parallel importation. We believe this will encourage competition and demolish trade barriers, enabling consumers to have wider choices at more competitive prices.

We earnestly hope that the Government will give consideration to our suggestions and review the related provisions in the Bill.

Yours sincerely,



Ruth Yu
Executive Director

c.c. Mr. Vincent Fang, JP, Legislative Councillor, Wholesale & Retail