

Submission on
“Proposals for Strengthening
Copyright Protection in the Digital Environment”
(LC Paper No. CB(1)341/09-10(08))
by
the Concern Group of the Education Sector on Copyright Law

7 Jan 2010

Comments on the proposals

(a) Recognising copyright owners’ right to communicate their works through any mode of electronic transmission, with criminal sanctions against infringement

1. The Concern Group supports the Administration to take a more forward looking approach in making our copyright law technology neutral.
2. However, we do hope that the proposed all-embracing criminal sanction would not adversely affect the scope of permitted acts, particularly those for the education sector, under the "fair dealing" provision of the Copyright Ordinance.

(b) Introducing a statutory limitation of liability regime for OSPs in dealing with online piracy

3. The Concern Group appreciates the ground work done by the Tripartite Forum, and support the introduction of a statutory regime for OSPs in dealing with online piracy.
4. We wonder whether the web sites, web hosting services, Web 2.0 platforms, etc. provided by education institutions would be classified as OSPs in the legal context. It might be of tremendous resource implication to those education institutions if they have to follow the "Notice and Notice", "Notice and Takedown" or similar systems.

(c) Introducing a copyright exception for temporary reproduction of copyright works by OSPs

5. The Concern Group supports the proposal in para 15.

(d) Prescribing additional factors for considering the award of additional damages

6. The Concern Group supports the proposal in para 17.

(e) Introducing a media shifting exception for sound recordings

7. As the general direction of the Administration's proposal is to forward looking and technology neutral, the Concern Group proposes that the allowed act of media shifting for personal and domestic uses should not be limited to sound recordings.
8. The anti-circumvention legislation may render the allowed act of media shifting impracticable if the copyright work is protected by technological measures such as access control or copy control. The Concern Group proposes that if an act of digital media shifting is legal, it should remain to be legal to circumvent the technological measures in order to do the media shifting.
9. School or university libraries might also need to do media shifting on video and audio works of obsolete format so as for easily accessible for learning and teaching.