

Date: 23 July 2011

HKITF response to Copyright (Amendment) Bill 2011

- 1) Hong Kong Information Technology Federation welcomes the government's proposal on introducing a broad, technology neutral right of communication into the HK Copyright Ordinance. This will remove any doubt that innovators may have on how to protect and control their copyright online. This will also ensure that HK's copyright standards and legislations are up to date and in-line with other jurisdictions in the region.
  
- 2) We also supports the enactment of a Code of Practice as this will provide certainties to OSPs on what actions they are required to take to enjoy the safe harbor. However the draft of COP must be straightly under public invigilation and OSPs sector should be consulted.
  
- 3) We note that the Copyright Bill contains no requirements for OSPs to implement a policy to deal with repeat end-user infringers. To efficiently deter online infringements, HKITF suggests including a requirement in the Bill or the Code of Practice that for OSPs to enjoy the safe harbor, they should have a legally binding policy or agreement in place with their end-user subscribers, which provides OSPs the rights to terminate or suspend accounts of end-user subscribers who repeatedly post infringing materials.
  
- 4) The future growth of HK's IT industry is contingent upon HK enacting and enforcing strong measures against software piracy. HKITF supports the government's proposal to introduce additional factors to assist the court in determining the award of additional damages. However, I have to emphasis in any sense, such claiment on any additional damage should not violate freedom of expression and no valid claim should be made when such creation has no commercial value.