

香港中區立法會道 1 號
立法會
《2014 年版權(修訂)條例草案》委員會
主席
陳鑑林議員, SBS, JP

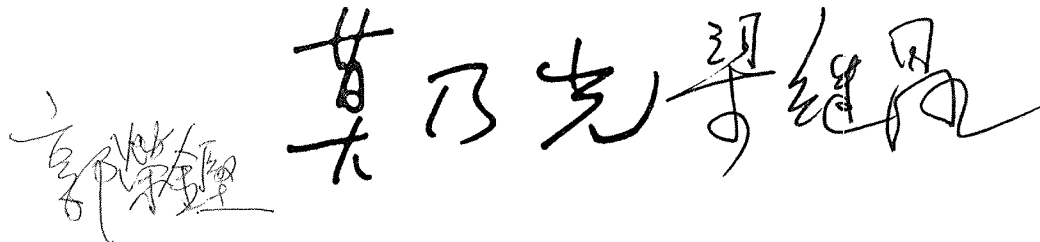
陳主席：

有關「非商業處理版權豁免」事宜

《2014 年版權(修訂)條例草案》(下稱為「條例草案」)的立法爭議至今仍未解決，我們認為無論條例草案能否於今屆立法會完成審議，各方持份者仍有必要進行討論，以得出符合各方需要的立法方案。

我們希望 閣下可邀請條例草案的各方持份者，包括政府、議員、版權持有人代表，以及網民代表進行共同會談，就「有限度公平使用豁免」，包括我們向政府提出的「非商業處理版權豁免」建議交流意見，以求早日達成共識，令條例草案的立法工作有望早日取得進展。

來函 謹附上我們建議的修正案中文及英文副本，以供 閣下參考。



郭榮鏗

莫乃光

梁繼昌

立法會議員

二零一六年三月八日

Part II

Non-commercial fair dealing in relation to works

(1) Subject to this section and sections 38, 39, 39A, 41A and 54A, a non-commercial fair dealing with a literary, dramatic, musical, artistic work and audio-visual material, for any purpose other than a purpose referred to in section 38, 39, 39A, 41A or 54A shall not constitute an infringement of the copyright in the work.

(2) For the purpose of this section, in determining whether a dealing with a literary, dramatic, musical, artistic work and audio-visual material constitutes a non-commercial fair dealing with the work under this section for any purpose other than a purpose referred to in section 38, 39, 39A, 41A or 54A, the court shall take into account all the circumstances of the case and, in particular —

(a) the purpose and nature of the dealing, that any dealing, including any subsequent use or modification, must be for non-profit making and non-commercial purposes;

(b) the nature of the work;

(c) the amount and substantiality of the part copied taken in relation to the whole work as a whole; and

(d) the effect of the dealing on the potential market for or value of the work.

Part III

Non-commercial fair dealing in relation performance or fixation

(1) Subject to this section and sections 241, 241A, 242A and 246A, a non-commercial fair dealing with a performance or fixation for any purpose other than a purpose referred to in section 241, 241A, 242A or 246A shall not constitute an infringement of the copyright in the performance or fixation.

(2) For the purpose of this section, in determining whether a dealing with a performance or fixation constitutes a non-commercial fair dealing under this section for any purpose other than a purpose referred to in section 241, 241A, 242A or 246A, the court shall take into account all the circumstances of the case and, in particular —

(a) the purpose and nature of the dealing, that any dealing, including any subsequent use or modification, must be for non-profit making and non-commercial purposes;

(b) the nature of the performance or fixation;

(c) the amount and substantiality of the part copied taken in relation to the whole performance or fixation as a whole; and

(d) the effect of the dealing on the potential market for or value of the performance or fixation.