

LPIA

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4 November 1999

Ref: G99028

Ms Margaret Ng
Chairman, Bills Committee on Trade Marks Bill
Room 420, Central Government Offices
11 Ice House Street
Central
Hong Kong

By hand

Dear Ms Ng

As the representative trade association of the liquor and provision industries of the Hong Kong Special Administrative Region ("HKSAR"), the Liquor and Provision Industries Association ("LPIA") and its members wish to express their serious concern on the issue of parallel imports. We understand that in the recent Trade Marks Bill, the HKSAR Government, contrary to its previous position, seeks to introduce the concept of international exhaustion of rights. It may mean that parallel imports will no longer constitute trade mark infringement in HKSAR and trade mark owners and authorized local distributors will have to pursue their rights by way of contract or passing off.

While we are firm supporters of the principle of "free trade", we have to emphasize that such "free trade" should bring ultimate benefits to the local consumers. Recently we have seen a heightened media awareness and heated debate regarding the issue of parallel imports in HKSAR. Numerous examples of parallel imported products, some being food, provision and liquor, were found to be in violation of our labelling and/or safety laws and regulations. It is not uncommon that some speculative traders bring in parallel imported products for opportunistic gain, ignoring not only the local laws and regulations, but also the very basic rights of our consumers. In two of the most recent incidents, the issue became even more complicated with the involvement of counterfeit products in the parallel imports. In this regard, we trust the HKSAR Government will try its best to protect the consumers. We well understand the huge effort and time required, as well as the practical difficulties in fixing up the damages caused by these uncontrolled parallel imports, but we ultimately believe that uncontrolled parallel imports are neither welcomed nor beneficial to consumers in Hong Kong.

A survey of the LPIA membership revealed that there is a large majority against the introduction of the Trade Marks Bill, in particular the debatable concept of international exhaustion of rights. We are also strongly against the rush to introduce the new legislation without adequate consultations from all relevant parties.

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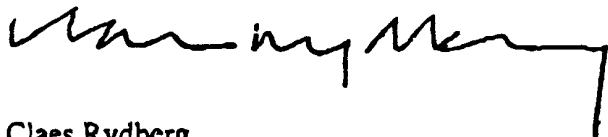
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Finally, we would like to reiterate that the LPIA and its members fully support the HKSAR Government in the protection of rights of our consumers. The very likely consequence of the proposed new trade mark legislation will be excessive and uncontrolled parallel imports, which are going to adversely affect the current healthy trading environment and do ultimate harm to the consumers, in terms of both product value and guaranty of quality.

We ask you to give serious consideration to our views and would be happy to meet with the relevant HKSAR Government officials to discuss our points in more depth. Should there be any questions on which you would like to have more information, please do not hesitate to contact us.

Yours sincerely



Claes Rydberg
Chairman

CR/ml

cc: Mr Chau Tak Hay, Trade and Industry Bureau (by hand)