

## **Bills Committee on Trade Marks Bill**

### **Liberalising Parallel Importation of Trade Mark Goods Response to the Joint Submission from Six Trade Associations**

#### **Introduction**

This note sets out the Government's response to the joint submission ("the submission") made jointly by six trade associations on 21 February 2000.

#### **Globalisation of Trade**

2. It is important to set out the background of the Government's proposal to liberalise parallel importation of trade mark goods. Globalisation of trade is an irreversible trend, accelerated in recent years by the exponential growth of the Internet and rapid development of electronic commerce. The impact on various business sectors is dramatic and is rapidly changing the business environment. It is a fact of life that it is becoming much easier for importers and consumers to source their goods from overseas markets via the Internet. In practice, there is a proliferation of businesses selling, for example, parallel-imported cosmetics or automobiles.

3. Against this background and in line with our firm belief in free trade, we have drafted Clause 19 of the Trade Marks Bill which seeks to liberalise parallel importation. As an ardent supporter of free trade, the Government's fundamental position is that the free flow of genuine goods should not be impeded unnecessarily. It will be a retrograde step to our free trade policy to construct any artificial barrier in our legislation to stem the tide. We therefore cannot comprehend the assertion made by the submission that "there is no valid link between the liberalisation of parallel imports and free trade".

#### **Safety Considerations and Enforcement Against Counterfeit Goods**

4. We disagree with the argument put forward in the submission that parallel imports will pose a "significant health and safety hazard". There

are already controls under separate statutes to ensure the safety of various consumer goods in Hong Kong. Specific legislation is in place for certain products such as food, pharmaceutical products and electrical appliances to impose stringent safety requirements. All consumer goods not covered by specific legislation are covered by the Consumer Goods Safety Ordinance. The statutory safety requirements apply to all goods supplied for local consumption regardless of who imported them.

5. The submission claims that parallel imports will encourage “the proliferation of counterfeit goods”. This is again unfounded. We have clarified at the outset that parallel imports are not counterfeit goods: they are genuine products that have been legitimately produced and placed on the market outside Hong Kong with the consent of the owner of the intellectual property right. The Customs and Excise Department is firmly committed to the protection of intellectual property rights. The Department will take action against counterfeit goods put on the market in Hong Kong regardless of who imported them. The submission’s conclusion that there would be “chaos in the market place” following the liberalisation of parallel importation lacks any logical basis.

### **Consumer Choice and Availability of Goods**

6. The submission suggests that liberalising parallel importation will bring about “adverse consequences for consumers”. Parallel importation increases the range of goods available to consumers. With increased market competition, the prices of some goods will come down. If the exclusive licensees or the sole distributors are offering a value-added service in terms of aftercare and other services, they should be able to compete more effectively with parallel importers in the market.

### **Conclusion**

7. It is in the interest of Hong Kong to keep markets open. The proposed liberalisation of parallel importation is consistent with free trade policies which have served us well in the past and which will ultimately benefit the economy as well as consumers.

Trade and Industry Bureau

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