

Bills Committee on Trade Marks Bill

Parallel Importation

I Relevant papers provided by the Administration

<u>Title of Paper</u>	<u>LegCo Paper No.</u>
(a) Parallel importation of trade marks article	CB(1)334/99-00(01)
(b) Liberalizing parallel importation of trade mark goods	CB(1)660/99-00(03)
(c) Parallel importation of trade mark goods - the position in Australia and Singapore	CB(1)676/99-00(02)
(d) Parallel importation of trade mark goods and labelling requirements	CB(1)859/99-00
(e) Parallel importation and the control of unregistered pharmaceutical products	CB(1)1037/99-00(03)
(f) Liberalizing parallel importation of trade mark goods - Response to the joint submission from six trade associations	CB(1)1076/99-00(03)
(g) Liberalizing parallel importation of trade mark goods	CB(1)1370/99-00(02)

II Organizations supporting or expressing no objection to liberalization of parallel importation

<u>Name of organization</u>	<u>LegCo Paper No.</u>
(a) Consumer Council	CB(1)206/99-00(04) CB(1)660/99-00(01) CB(1)1076/99-00(1)
(b) Hong Kong Bar Association	CB(1)136/99-00(01) CB(1) 206/99-00(01)
(c) Hong Kong Retail Management Association	CB(1)676/99-00(01) CB(1)1076/99-00(01)
(d) Mega Warehouse	CB(1)1105/99-00

III Organizations expressing objection to liberalization of parallel importation

<u>Name of organization</u>	<u>LegCo Paper No.</u>
(a) Association of Better Business and Tourism Services	CB(1)1244/99-00
(b) CPC/AJI	CB(1)1105/99-00
(c) Hong Kong and Kowloon Electrical Appliances Merchants Association	CB(1)1037/99-00(02)
(d) Hong Kong Brewers Association	CB(1)887/99-00
(e) Hong Kong Photo Marketing Association Ltd	CB(1)1037/99-00(02)
(f) International Trademark Association	CB(1)1903/98-99
(g) Radio Association of Hong Kong	CB(1)1037/99-00(02)
(h) The Cosmetic and Perfumery Association of Hong Kong	CB(1)1037/99-00(02)
(i) The Hong Kong Association of the Pharmaceutical Industry	CB(1)814/99-00
(j) The Hong Kong Food Council	CB(1)1037/99-00(01), CB(1)1370/99-00(01)
(k) The Liquor and Provision Industries Association	CB(1)660/99-00(02) CB(1)686/99-00
(l) Unilever Hong Kong Ltd Colgate-Palmolive (HK) Ltd Levis Strauss & Co. Johnson and Johnson (Hong Kong)Ltd PepsiCo, Inc	CB(1)136/99-00(02)

IV Organization indicating a neutral position on liberalization of parallel importation

<u>Name of organization</u>	<u>LegCo Paper No.</u>
The American Chamber of Commerce in Hong Kong	CB(1)292/99-00

V Organizations expressing concern about liberalization of parallel importation

<u>Name of organization</u>	<u>LegCo Paper No.</u>
(a) Law Society of Hong Kong and the Hong Kong Group of the Asian Patent Attorneys Association	CB(1)278/99-00 CB(1)319/99-00
(b) Royal Danish Consulate General	CB(1)982/99-00

VI Main points put forward by organizations in favour of liberalization of parallel importation

- (a) Parallel-imported goods are genuine goods, not counterfeits.
- (b) Wider choices of goods will be made available to consumers. Goods which are of limited demand or goods which cater for a small segment of the community will be imported.
- (c) Price of goods will be cheaper because of increased competition and of the ability of suppliers/retailers to source goods world-wide.
- (d) Liberalizing parallel imports is in line with the free trade policy of Hong Kong and the trend of globalization of the world market.
- (e) Development of electronic commerce makes it difficult if not impossible to set territorial boundaries to restrict circulation of goods.
- (f) Any difference between parallel-imported goods and mainstream goods is only a matter of taste rather than of substance or quality.
- (g) Consumers have the ability to differentiate between parallel-imports and mainstream goods.
- (h) Existing legislation concerning product safety, health standards and labelling requirements are sufficient to protect the interest of consumers.

- (i) Specific legislation have been put in place governing specific category of products, such as electrical appliances, food, children products, pharmaceuticals, etc.

VII Main arguments put forward by organizations against liberalization of parallel importation

- (a) Many major trading partners of Hong Kong do not adopt international exhaustion of rights, for example the United States and the European Union.
- (b) The right of trade mark owners to license goods on a territorial basis will be taken away.
- (c) Parallel-importers take unfair advantage of the efforts made and the money spent by authorized licensees/distributors in building up the reputation of the trade mark.
- (d) Trade mark owners will lose incentive to invest time and resources in brands and in researching and developing new products if they could not make reasonable returns from these activities. Authorized distributors will reduce marketing cost to make the price of mainstream goods more competitive. The consequences will be that the employment opportunities in certain sectors, notably the advertisement field, and the economy of Hong Kong will be adversely affected in the long run.
- (e) Many products sold internationally under a single brand vary in nature, quality or composition of standards, according to local market tastes or regulatory requirements. Consumers may be confused with the seemingly identical but in fact different products.
- (f) Permitting parallel imports makes it more difficult to prevent and identify counterfeits.
- (g) Parallel imports generally have a shorter shelf-life and their quality may have deteriorated or damaged in the course of improper transportation. The quality of pre-packed food, beverages and pharmaceuticals are of particular concern.
- (h) After-sales service and user manual in the local language are always not available for parallel-imported goods.
- (i) The existing labelling requirements are inadequate to protect consumers' interest. "The best before date" for consumption of products is not specified. Moreover, without the name and address of importer on a

label on goods, consumers do not know where to seek redress when they have bought defective or sub-standard goods. It will also be difficult to recall the products should any problem be found.

VIII Meetings of Bills Committee at which the issue of parallel importation was discussed

<u>Date of meeting</u>	<u>Minutes of meeting</u>
23 October 1999	CB(1)787/99-00
6 November 1999	CB(1)943/99-00
11 November 1999	CB(1)1011/99-00
28 December 1999	CB(1)1203/99-00
26 February 2000	CB(1)1387/99-00

Legislative Council Secretariat
10 April 2000