

**Submission to the LegCo Panel on Trade and Industry
by HMV Hong Kong**

Position Paper on Parallel Imports

HMV Background Information

- In 1921, HMV established the world's first record store in Oxford Street, London, UK. In 1998, HMV has a worldwide network of over 260 stores all over Hong Kong, Singapore, Japan, UK, Canada, Australia, Ireland, USA and Germany.
- HMV had its first store opened in Hong Kong in October 1994 and by August 1996 had 4 stores located in Tsimshatsui, Central, Causeway Bay and Shatin.
- The four Hong Kong stores have capacity for stocking over 600,000 CDs, representing over 100,000 titles.
- Historically, HMV is a company renowned for stocking the widest selection of sound recordings, for which it is second to none.

What is a Parallel Imported Product?

- A product that has been lawfully manufactured abroad with the consent of the copyright owner, but which is imported without authorisation from the copyright owner or the exclusive licensee in the place of importation.
- They are original goods, and for which royalties have been paid.

HMV's Import Strategy Prior to 27th June 1997

- HMV would always seek to source products from the local licensee.

- In the event of any shortfall (which nearly always occurred) HMV would import from overseas.

Import Strategy After 27th June 1997

- Where appropriate, HMV purchases from the local licensee new products which are within 18 months of their first publication.
- If there is no fill or only part fill of an order, HMV does not import.
- Where appropriate, HMV sources from the local supplier old products published over 18 months ago.
- In the event of no fill or only part fill of an order, HMV may consider importing from elsewhere with the defence of “unconscionable conduct”.

Impact of the Law on Parallel Importation upon Retailers

- This is an issue of availability of products.
- Retailers are effectively agents of consumers.
- Retailers need to satisfy consumers’ demand for a product.
- Retailers need to satisfy consumers’ demand for a wide choice of products.
- The existing law has resulted in HMV being unable to source as many as 200 to 300 titles per month, due to not knowing who to buy from, or receiving inadequate fill of orders.

Particular Experience

- Some record companies have fill rates of orders as low as 40%, or even lower.

- In such situations, HMV cannot import new products which have been published for less than 18 months, resulting in:-
 - little or even no stock; and
 - consumers not being able to purchase.

Expansion Plans

- Having opened 4 stores in Hong Kong in 3 years, the expansion plan has been put and remains on hold as a result of the parallel import restrictions.
- Compare with Japan where there are no restrictions on parallel importation, HMV has already opened 21 stores there since November 1990, with 3 new stores opened in 1998, and 5 are planned for 1999.

HMV's Key Concerns

- Consumers are losing out due to HMV not being able to purchase 200 to 300 new titles per month and inadequacy of stocks.
- HMV's business is deteriorating as a result of unavailability of new titles and inadequate supplies, resulting in decrease in revenue.
- HMV wants to ensure that products are available for consumers to purchase if the local licensee cannot supply such products.
- As a bare minimum HMV requires a defence mechanism which allows importation of copyright products within 18 months of first publication where the same are not available from the local licensee.

Dated 3rd November 1998

HMV Hong Kong