

Legislative Council Panel on Trade and Industry

Prevention of Copyright Piracy

Introduction

This note sets out the latest position on a number of issues discussed at the meeting of the Legislative Council Panel on Trade and Industry held on 15 February 2000.

Prevention and Control of Internet Piracy

2. The Copyright Ordinance already contains the necessary provisions to protect copyright works transmitted on the Internet. However, we are acutely aware of the possible proliferation of Internet piracy activities. In order to enhance Customs' capability in handling computer crimes including those relating to intellectual property rights infringements, an Anti-Internet Piracy Task Force has been set up last year within the Intellectual Property Investigation Bureau. A departmental computer-crime interest group and a Computer Analysis and Response Team (CART) have also been formed. Some 80 officers are taking part in these activities.

3. Recognising that expert knowledge and training are the prerequisite to enable officers to tackle cyber crimes effectively, members of the Task Force and the CART have been enrolled in and will continue to attend appropriate courses on related topics. For instance, a four-day Cyber Investigation Seminar co-organised by Hong Kong Customs and US Customs Services was held in Hong Kong in April 2000 to enable exchange of enforcement experience and techniques in cyber investigation.

4. Internet piracy is an international problem requiring global attention. We will strengthen co-operation with other enforcement agencies to keep tabs on the latest international development and in enforcement. It is encouraging to note that industry takes an equal interest in the issue and some copyright organisations employ special investigators to screen websites for infringing activities and refer illicit activities to Customs for follow up. On 19 April 2000, Customs detected

the first Internet piracy case since the establishment of its Anti-Internet Piracy Task Force, acting on information provided by the Business Software Alliance. The success of this case signifies the importance of cooperation between industry and the enforcement agency.

Measures to Address the Concerns Raised by Optical Disc Manufacturing and Technologies Association (ODMTA)

5. At present, an optical disc manufacturer is obliged to exercise due diligence in verifying whether the customer has obtained proper authorisation from the copyright owner before accepting an order to manufacture optical discs containing copyright materiel. The ODMTA is concerned about difficulties in verifying the copyright authorisations produced by customers. It has proposed setting up a statutory central copyright registration system.

6. There are well-established practices to verify the authenticity of authorisation by copyright organizations. The major copyright organizations have publicly undertaken to step up their support for optical disc manufacturers in verifying copyright authorization documents.

7. The ODMTA's proposal to set up a central copyright registration system is not in line with our international obligations. Relevant international treaties applicable to Hong Kong stipulate that copyright protection should not be restricted by any obligatory registration requirements.

8. To help speed up the verification of copyright authorisations originating from the Mainland, a Customs delegation visited the National Copyright Administration and the Press and Publication Administration in Beijing in February 2000 to discuss co-operation between the two sides in facilitating Hong Kong Customs to authenticate authorisations issued by Mainland copyright agencies. Both sides reached an agreement in principle in this regard, and are working out detailed operational arrangements. We expect to be able to conclude a formal agreement soon.

Recordable Compact Discs

9. The ODMTA has also proposed that recordable compact discs be exempted from the requirement laid down in the Prevention of Copyright Piracy Ordinance to include a specific "manufacturer's code"

assigned to each optical disc manufacturer.

10. As a result of extensive raids against illegal manufacturers of read-only compact discs, cases involving pirated computer software and movies in recordable compact discs have been increasing recently. From the enforcement point of view, the manufacturer's code provides an additional tool for Customs to trace the source of infringing recordable compact discs.

11. The cost of putting a manufacturer's code on recordable compact discs is relatively insignificant. Optical disc manufacturers will not be victimised as enforcement action is only taken against infringers based on evidence.

Progress of Enforcement against Copyright Piracy and Statistics on Anti-Piracy Activities

12. In 1999, Customs seized a total of 16.5 million pirated optical discs and 14 production lines worth over \$360 million and arrested 2,701 persons in anti-piracy operations. In the first four months of 2000, Customs seized some 3.2 million pirated optical discs and 4 production lines valued at \$70 million and arrested 1,042 persons.

13. Following the formation by Customs of a Special Task Force (STF) in June 1999 to step up enforcement against retail piracy activities, the situation at the retail level has shifted dramatically. A year ago, there were over 1,000 retail outlets of pirated compact discs, each operating over 12 hours a day carrying an average of some 5,000 pirated compact discs in each outlet. This translates into some five million pirated discs in the market place at any one time. At present, there are fewer than 100 retail outlets, each operating fewer than three hours a day carrying an average of less than 1,000 pirated discs in each outlet. This translates into some 100,000 discs in the market place at any one time. The reduction in volume is about 98%. The STF will maintain its enforcement pressure in the months ahead.

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