

24 April 2001

Hon. Mr. Kenneth TING Woo-shou, JP
Chairman, Panel on Commerce & Industry
Legislative Council
Hong Kong Special Administrative Region
of the People's Republic of China

Dear Sir,

RE: INTELLECTUAL PROPERTY (MISCELLANEOUS AMENDMENTS) ORDINANCE
2000

As Chairman of the Hong Kong Reprographic Rights Licensing Society (HKRRLS), the only such collection agency for works in print in the SAR and the recognised national affiliate of IFRRO (International Federation of Reproduction Rights Organisations), I must protest the singling out of print and cable television media, from amongst all rightsholders covered by the copyright law, for unequal treatment under the law.

After some three years in the making, we do not agree that the law's amendments as already passed require suspension for presumed further "improvement" and, if such amendments are to be suspended, then such suspension should certainly apply equally to all rightsholders.

While we share concerns about the absence of nuancing in the application of criminal penalties for copyright theft under the law's provisions, there are many alternative ways to address these issues without suspending the law, such as administrative directives regarding enforcement procedures, a more committed stance by Government in support of HKRRLS and other licensing initiatives for print media (such as that planned by the 11 members of the Newspaper Society), et al.

Hong Kong Government's ill-considered move to suspension of recently passed amendments, within three weeks of revisions that were three years in the making, appears to be based on the claim of a weakness in the current licensing capabilities of Hong Kong's print industries.

This is patently untrue in the case of local book publishers, over 50 of whom we represent. Combined with our IFRRO representation, our licence schemes cover about 1.7 million publications in Hong Kong and around the world.

We currently provide blanket licences to over 1,000 primary and secondary schools represented by HKSSSC, SPSC and the Education Department. We also provide a licence to Government for about 190,000 civil servants and have others prepared and under negotiation with tertiary institutions, international schools, copy shops and SMEs via local chambers of commerce (I am, in fact, publisher for books and periodicals of the American Chamber of Commerce in Hong Kong and, in that capacity, our chamber is a

founding member of HKRRLS).

Summary suspension of the law for selected categories of rightsholders also violates both the letter and spirit of the Berne Convention and the WTO's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).

I urge your panel to work with affected rightsholders to find better ways to address the absence of a newspaper and magazine licence scheme and concerns about legal penalties and to demand that Government honor its obligations under the copyright law's amendments as passed earlier this month and work with affected industries, most of whom are SMEs, instead of against them.

We stand ready to assist such an effort and we are most certainly able and willing to provide a licence scheme to anyone who seeks a simple and legal means to continue reprographic practices.

Yours sincerely,

Fred S. Armentrout
Chairman
HKRRLS