# HKITF Response to Copyright (Amendment) Bill 2001

1. The Hong Kong Information Technology Federation (HKITF) supports the Government's proposal to remove the current restrictions on parallel importation of legal computer software.

2. The Federation is in the view that parallel importation of software is inevitable especially with the advent of the Internet and global e-commerce, and conducive to allowing more choices for consumers. Hence, we welcome the proposed liberalization.

3. Concerning the distinction between different types of copyright works, while the Federation is not directly associated with, and certainly does not represent in any way, the movies and music recording industry, we are inclined to recommend not to make distinction on copyright works as far as parallel importations are concerned. We believe that under free-market philosophy and putting the rights of the consumers first, there is little if any reason for a protectionist regime to disallow any parallel importation of legal copyright materials.

4. In fact, the fact that the Government acknowledges "it is necessary to circumscribe the scope of the proposed liberalization carefully, in order to avoid unintentionally lifting the restrictions on parallel importation of movies and music recordings" demonstrates the unnatural nature of the distinction. For instance, the exception made to the removal of civil and criminal liabilities related to parallel importation of computer software "with the exception of those whose principal use is to be viewed or played as a movie, television drama, or a musical audio or visual recording" seems to be prone to draw confusions.

5. The Federation is also concerned about the Bill's definition for software. For instance, by claiming "the use of computer software usually required the installation of the software into the user's computer" and "this often involves the copying of the whole or part of the software into the computer's hard disk" is not an accurate technical description for "software." For instance, firmware that is a form of software installed on processors or micro-computers (which do not have "hard disks") are not taken into consideration. The definition of "making a copy" can also be problematic, since some reasonable and technically necessary copying of parts of a software (e.g. in random access memory, RAM, or on "cache servers" over the network including the Internet) may be necessary and unavoidable for normal operation of these software. Also, the line between data and programs are beginning to blur. For instance, data

in the form of Javascript downloaded from a network may run as a program, hence may be considered to be a form of software also. The Federation merely wants to remind the Government not to make any unnecessary legislation that may unintentionally limit legitimate use of software applications in any way.

The Council
Hong Kong Information Technology Federation
September 4, 2002

**About HKITF**

The HKITF was founded in 1980 to provide a forum in which the normally competitive IT Vendor companies in Hong Kong could work together to improve the industry and to maintain a high level of business practice amongst its members. Over the next several years HKITF developed into a dynamic organization which now comprises all of the major hardware and software vendors together with many of the IT related service, training, systems integration and consultancy companies. HKITF is a not-for-profit and non-political organization, which functions under the direction of an elected Executive Council. The HKITF also counts a number of important industry forums as our affiliate organizations, including the Hong Kong Internet Service Providers Association (HKISPA) and the Open Software Forum (OSF).