Administration's response to additional comments made by the Law Society in its submission dated 18 June

Since comments in paragraphs 1 to 15 of the Law Society submission are same as those set out in their previous submission which was discussed at the Bills Committee meeting on 12 June, we will confine our response to the additional comments in their submission relating to the Copyright (Amendment) Bill 2001.

Comments of Law Society	Our response
Paragraph 16	Noted.
Paragraph 17	The approach suggested by the Law Society is to set out in a positive manner those articles that fall within the scope of liberlisation. As explained in an earlier paper for the Bills Committee, our intention is to liberalise the parallel importation of all articles which embody a computer program, save for some specified exemptions. This is in line with our policy of liberalising parallel imports as far as possible to enhance consumer choice.
Paragraph 18	(The subsection mentioned in the submission has been renumbered to section 35A(2) in the latest draft CSA: The subsection reads as follows: *(2) Subsection (1) applies to –* *(a) a copy of a computer program; or* *(b) except as provided in subsection (3) or (4), a copy of a work other than a computer program, which copy is embodied in an article that also embodies a copy of a computer program,* *that, but for subsection (1), would be an infringing copy for the purposes of section 35(3).*

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	"For the purposes of" in the above simply refers to a copy that would be an infringing copy under section 35(3). The use of the expression "for the purposes of" is standard drafting language and we do not see a need to change it. The reference to "lawfully made" is contained in subsection 1. There is no need to repeat the reference in subsection 2.
Paragraph 19	There is already a definition of "lawfully made" in the existing section 35(9) of the Copyright Ordinance. The definition is to be moved to section 198 with minor textual revisions and the new version is acceptable to the industry.
Paragraph 20	The concept of an e-book is an electronic version of a book, magazine or periodical. A so-called "audio book" does not fall within this concept. However, an e-book may be accompanied by sound recordings for illustrative purposes. This has been covered in the current proposed definition which is acceptable to the industry.
Paragraph 21	The wording in the bracket will be deleted.
Paragraph 22	A movie shorter than 15 minutes or a television drama shorter than 10 minutes will be caught by the test in subsection 3 if the copy in question is the whole or substantially the whole of the movie or television drama. Where

Comments of Law Society	Our response
	the copy in question is not the whole or substantially the whole of the movie or television drama, it will still be subject to the test of "likely purpose of acquisition" in subsection 4. Section 35A(3)(b) serves to prevent circumvention of the test in subsection 3(a) by breaking down a movie or television drama into several parts. Under this subsection, where a movie or a television drama is being divided into different parts and embodied in an article together with a computer program, and if these parts added up together constitute the whole or substantially the whole of the movie or television drama or more than 15 minutes or 10 minutes, the copies of these parts will be excluded from the scope of liberalisation.
Paragraph 23	The current definitions for movies and television dramas make it clear that the terms should be interpreted according to their prevailing meaning. The definition is acceptable to the industry.
Paragraph 24	See our comments in response to paragraph 17.

Commerce and Industry Branch
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