

立法會
Legislative Council

LC Paper No. LS53/03-04

**Paper for the House Committee Meeting
on 12 March 2004**

**Legal Service Division Report on
Proposed Resolution under section 3 of the
Copyright (Suspension of Amendments) Ordinance 2001 (Cap. 568)**

The Secretary for Commerce, Industry and Technology has given notice to move a motion at the Legislative Council meeting on 24 March 2004. The motion seeks the Legislative Council's approval of the Copyright (Suspension of Amendments) Ordinance 2001 (Amendment) Notice 2004 ("the Notice"). The purpose of the Notice is to amend the expiry date under section 3(1) of the Copyright (Suspension of Amendments) Ordinance 2001 (Cap. 568) ("the Suspension Ordinance") from 31 July 2004 to 31 July 2006.

2. Members may recall that the Suspension Ordinance suspends the implementation of the new criminal provisions of the Intellectual Property (Miscellaneous Amendments) Ordinance 2000 except as they apply to computer programs, movies, television dramas and musical sound and visual recordings (the four categories of works) so that the Administration can work out a long time solution for the suspension measures, in particular, on end user liability.

3. In February 2003, the Administration introduced the Copyright (Amendment) Bill 2003 to the Legislative Council. One of the major proposals is to make permanent the arrangements under the Suspension Ordinance, i.e. to confine the scope of end-user criminal liability to the four categories of works.

4. During the scrutiny of the Bill by the Bills Committee on the Copyright (Amendment) Bill 2001 and Copyright (Amendment) Bill 2003, divergent views were expressed. While the copyright works users such as the educational sector, professional bodies and a number of local trade associations supported the arrangements, some copyright owners groups such as those from the publication industry, the newspaper industry and some foreign chambers of commerce objected to the arrangements. Some copyright owners groups and users suggested that the Administration should consider the adoption of the "fair use" provisions in the Copyright Act of the United States.

5. In light of the divergent views, the Administration suggested to delete by way of Committee Stage amendments all proposed provisions relating to end-user liability from the 2003 Bill. They would then draft a new Bill to take into account of the views from the industries and users. The effective period of the Suspension Ordinance which was due to expire on 31 July 2004 would have to be further extended for two more years. Members of the Bills Committee supported the proposals.

6. No difficulties relating to the legal and drafting aspects of the proposed resolution have been identified.

Prepared by

HO Ying-chu, Anita
Assistant Legal Adviser
Legislative Council Secretariat
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