

For discussion on
18 January 2005

Legislative Council Panel on Commerce and Industry
Consultation Document on
Review of Certain Provisions of the Copyright Ordinance

Purpose

This paper briefs Members on the current consultation exercise on reviewing certain provisions of the Copyright Ordinance and seeks Members' views on the issues covered in the consultation document.

Background

2. When the Copyright (Amendment) Bill 2003 ("the 2003 Bill") was being deliberated by the Legislative Council, some copyright owners requested an expansion in the scope of criminal liability for using infringing copies of copyright works for business ("end-user criminal liability"). On the other hand, users of copyright works expressed serious concerns about possible impact on free flow of information and education activities and requested the introduction of a non-exhaustive approach to providing for copyright exempted acts. To enable these related issues to be thoroughly considered, we removed from the 2003 Bill all provisions relating to end-user criminal liability and undertook to discuss further with copyright owners and users.

3. Having regard to the wide social implications of any expansion in the scope of end-user criminal liability and any change in the current exhaustive approach to providing for copyright exemption, we have decided to issue a consultation document to consult the public widely before we formulate proposals in these aspects. Besides these two related issues, the consultation document also covers other aspects of the Copyright Ordinance such as end-user liability associated with parallel imported copies of copyright works, circumvention of technological measures for copyright protection; defence provision for employees against end-user criminal liability and rental rights for films.

4. To facilitate public discussion, we have set out possible options and relevant considerations for the various issues covered in the consultation document. These options and considerations serve to stimulate public discussion and are not meant to be exhaustive. The consultation period will end on 15 February 2005 and a copy of the consultation document has been circulated to Members vide our letter dated 9 December 2004.

Way forward

5. We will carefully consider the views received in the consultation exercise before formulating new proposals. We plan to report the outcome of the consultation to Members and consult Members on our proposals in the second quarter of 2005. Subject to Members' agreement with our proposals, we hope to submit an amendment bill to the Legislative Council for consideration and enactment before the expiry in end July 2006 of the suspension arrangements for the provisions relating to end-user criminal liability (except those applying to computer programs, movies, television dramas and musical recordings).

Advice sought

6. Members are invited to note the consultation exercise and give views on the issues covered in the consultation document.

Commerce and Industry Branch
Commerce, Industry and Technology Bureau
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