

18th July, 2011

Chairman, the Hon CHAN Kam-lam,
Bills Committee-Copyright (Amendment) Bills 2011
Legislative Council
Hong Kong SAR.

By Fax and Email

Dear Sir,

The International Federation of the Phonographic Industry (Hong Kong Group) Limited, the recording industry body representating the majority of record producers in Hong Kong is pleased to be invited to submit views on the Copyright (Amendment) Bill 2011 (the Bill).

We refer to your letter dated 6th July, 2011. Given the relatively short notice, we are afraid that we can only manage to give you our preliminary and general views and comments at this stage.

We would like to express our appreciation for the effort and hard work on the part of the administration in trying to update the digital copyright law in line with the international law and norms after rounds of public consultations since 19 December 2006.¹ The introduction of an all-embracing definition of technology-neutral communication right and the clarification of the meaning of authorization in the digital environment are the most important and crucial step for making digital copyright law meaningful; and their effort is heading for the right direction.

However we must not lose sight of the real issue confronting to our economy, what is the remedy for market failure as a result of rampant and blatant online piracy in Hong Kong. The debate is that online piracy problem is basically “the conflict between the free-riders of copyrighted materials and the copyright owners, and the balance between access to information and the incentive to create information.” The digital environment entails a new set of remedies aiming at fighting against millions of online infringers as the alternative costly and lengthy civil litigation does not make any sense in dealing with the sheer volume of online infringement.

¹ Hong Kong government: The public consultation on the ‘Copyright Protection in Digital Environment’ issued by the Commerce, Industry and Technology Bureau on 19 December 2006. Full text available at
<http://www.cedb.gov.hk/citb/ehhtml/pdf/consultation/Consultation_document.pdf> [Accessed July 11]

First and foremost, we hereby reiterate our views on digital copyright law as expressed in our submissions to the LegCo's Panel on Commerce and Industry dated 11th and 21st January 2010 respectively.

However, a further reading of the Bill reveals that it has failed to address the remedies in dealing with infringement at source, or the supply sides, namely, the technical measures in preventing the accessibility of infringing content by way of blocking and/or filtering. Cutting the supply of online infringing materials to online infringers at source is the most efficient and cost effective way in dealing with online infringement. We therefore invite the administration to consider the issue which in our view is the most important and key factor in fostering the development of creative industries in Hong Kong.

We will make further comments and observations on the Bill after we have an opportunity to compare it with the experience and practice of other leading jurisdiction.

Please kindly contact the undersigned for further clarifications to the above, or any matter concerning the recording industry views by phone (852) 2861 4303 or email: rickceo@ifpihk.org

Yours truly,

For and on behalf of
The International Federation of the Phonographic Industry
(Hong Kong Group) Limited



Ricky Fung
CEO

c.c. Committee – IFPI (Hong Kong Group)
IFPI