

《2014 年版權(修訂)條例草案》

委員會審議階段

由陳志全議員動議的修正案

<u>條次</u>	<u>建議修正案</u>
19	在標題中，刪去“加入第 39A 條”而代以“加入第 39A 及 39B 條”。
19	<p>在建議的第 39A 條之後，加入—</p> <p>“39B. 公平使用</p> <p>(1) 不論第 22, 89, 92 及 96 中的條文，公平使用的版權作品，包括該使用用作複製或分發複製品或用其他方法作傳播，為作批評、評論、引用、報導和評論時事、戲仿、諷刺、營造滑稽、模仿、教育（包括多次複製於教育機構使用）、學術、或研究的目的，都不被視作侵犯版權。在裁定某特定案件中作品的使用是否公平使用時必須考慮以下因素—</p> <p>(a) 使用目的及特徵，包括該使用是否屬於商業性質或非牟利用途；</p> <p>(b) 該作品的性質；</p> <p>(c) 相對於版權作品的整體，使用的部分所佔的數量及實質分量；及</p> <p>(d) 該使用對版權作品的潛在市場或價值的影響。</p> <p>只要裁定是根據以上因素而決定，一個作品未有公開發表的事實不能因此阻礙該作品裁定為公平使用。”。</p>

Copyright (Amendment) Bill 2014

Committee Stage

Amendments to be moved by the Honourable CHAN Chi-chuen

<u>Clause</u>	<u>Amendment Proposed</u>
19	In the heading, by deleting “ Section 39A added ” and substituting “ Sections 39A and 39B added ”.
19	After the proposed section 39A, by adding— “ 39B. Fair Use (1) Notwithstanding the provisions of sections 22, 89, 92 and 96, the fair use of a copyright work, including such use by reproduction or distribution in copies or communications by any other means, for purposes such as criticism, review, quotation, reporting and commenting on current events, parody, satire, caricature, pastiche, education (including multiple copies for educational establishment use), scholarship, or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include— (a) the purpose and character of the use, including whether such use is of a commercial nature or is for non-profit-making purposes; (b) the nature of the copyright work; (c) the amount and substantiality of the portion used in relation to the copyright work as a whole; and (d) the effect of the use upon the potential market for or value of the copyright work.

The fact that a work is unpublished shall not itself bar a finding of fair use if such finding is made upon consideration of all the above factors.”.