



18 February 2015

Hon. CHAN Kam-lam, SBS, JP
Chairman
Bills Committee on Copyright (Amendment) Bill 2014
Legislative Council
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

Dear Chairman Chan,

Deliberation of Bills Committee on Copyright (Amendment) Bill 2014

I write to offer a submission of views on behalf of the Hong Kong Copyright Alliance (the "Alliance"). Our Alliance consists of 15 organizations of the music, film, broadcasting, comics and animation, software and information technology sectors with over 1,400 member companies. We are broadly representative of the copyright and creative industries regarding copyright protection in Hong Kong.

This letter represents the consensus of the Alliance members about the "contract override" provisions; individual members of the Alliance may submit their own views separately to the Committee.

During recent meetings of the Bills Committee on the Copyright (Amendment) Bill 2014 (the "Amendment Bill"), a request was made for inclusion in Hong Kong's body of legislation of a novel provision providing that the fair dealing exception for parody, satire, caricature and pastiche would override any private contractual provisions which might exclude or limit the exercise of acts by a contractual party that were permitted under these fair dealing exceptions.

We are concerned with the inclusion of a "contract override" provision without proper discussion of this topic or consideration of its effects on the multi-faceted copyright content industries. This type of provision may affect freedom of contract and have a deep and extensive impact on operations of businesses whose structures and relationships depend on copyright law for their foundation. We also see that there is a great deal of confusion on the rationale for restricting contract override provisions for some but not all of the exceptions.

We see the fight against digital piracy online as a continuing process. The current Amendment Bill is one step in this process, but it will not be the last one. There is no need to rush into a decision on this point; the need (if any) for a "contract override" provision can and should be assessed in a more deliberative manner and legislated at a later stage if necessary. We urge for the swift passage of the Amendment Bill, and putting aside consideration of "contract override" for a later stage, when its



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concrete impacts on both copyright owners for various types of content, and users of various types of content, can be assessed.

Meanwhile, we strongly urge the Bills Committee not to delay the passage of the Amendment Bill any further. It has already been delayed far too long. Supplementary issues, topics and/or suggestions raised should be separately dealt with at a later stage.

Yours sincerely

Sam Ho
Hon. Secretary

Cc: Miss Ada Leung, Director, Intellectual Property Department
Mr. David Wong, Deputy Secretary, CEDB
Ms. YUE Tin-po, Clerk, Clerk, Bills Committee on Copyright (Amendment) Bill 2014

Members of Hong Kong Copyright Alliance included but not limited to:

Business Software Alliance
CASBAA (Cable and Satellite Broadcasting Association of Asia)
Entertainment Software Alliance
Hong Kong Comics and Animation Federation Limited
Hong Kong International Screen Association Limited
Hong Kong Motion Picture Industry Association Limited
Hong Kong Movie Producers and Distributors Association Limited
Hong Kong Recording Industry Alliance
Hong Kong Video Development Foundation Limited
IFPI Asian Regional Office
Motion Picture Association - International
PCCW
Television Broadcasts Limited
Time Warner Inc.
21st Century Fox Inc.