

October 17, 2014

Clerk to Bills Committee on Copyright (Amendment) Bill 2014
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

Attention: Miss Mandy Lam

Dear Bills Committee,



The American Chamber
of Commerce in Hong Kong
1904 Bank of America Tower
12 Harcourt Road, Hong Kong

RE: Submission on the Copyright (Amendment) Bill 2014

The American Chamber of Commerce in Hong Kong (**AmCham**) is encouraged by the introduction of the Copyright (Amendment) Bill 2014 (**the Bill**) on June 11, 2014 and we write in response to the Bills Committee's request for submissions on the proposed Bill.

While we are encouraged by these developments, we note that discussions on the digital copyright agenda began almost a decade ago. We also note that the product of those protracted discussions and public consultations – the Copyright (Amendment) Bill 2011 (*the 2011 Bill*) – ultimately was unsuccessful. You may recall that AmCham was supportive of the 2011 Bill, recognizing the importance of the 2011 Bill's introduction of a "technology-neutral communication right" in affording copyright owners some protection against unauthorized online distribution of their works.

Creative industries in Hong Kong have suffered tremendously while the debate about copyright reform has been languishing. Illustrative of this point is the decline in Hong Kong film production over the last 20 years (from approximately 300 films being produced in the early 1990s to only 48 films in 2013) and the relative prosperity of film markets in other parts of Asia (for example, in India and Korea). Hong Kong ought to be committed to fostering and safeguarding the next Run Run Shaw of Hong Kong cinema, as well as fledgling companies in the film production ecosystem. Many global television media companies have relocated their regional headquarters out of Hong Kong. Hong Kong also risks missing out on the full benefits of information and communication technology investments.

High standards of intellectual property rights protection are needed not only to protect, foster and enhance the competitiveness of Hong Kong's creative and innovation industries but also to develop key economic opportunities for Hong Kong's knowledge-based economies. Hong Kong's current copyright legislation and policy lag behind other jurisdictions in addressing the operational realities of working in the digital age. This problem is garnering the attention of a number of governments around the world.

Recognizing Hong Kong's broader political realities, we strongly urge the Administration to pass the Bill in this current Legislative Council year. Time is of the essence. However, we suggest that proposed sections 118(2AA) and 118(8C) (non-exhaustive factors for a Court's consideration) in the Bill ought to correspond with the proposals already vetted under the 2011 legislative process.

Yours faithfully,

Peter Levesque
Chairman 2014

Richard Vuylsteke
President

CC: Secretariats of all Honorable Legislative Council Members