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

Attn: Miss Mandy LAM

Dear Miss Lam,

RE: Submission on the Copyright (Amendment) Bill 2014

We write in response to the Bills Committee's request for submissions on the proposed Copyright (Amendment) Bill 2014 (*the Bill*). On behalf of Time Warner, Inc. (*Time Warner*), we are pleased to be given the opportunity to provide comments on the Bill.

Time Warner Inc. is a global media and entertainment company with businesses in television networks and filmed entertainment. We use our industry-leading operating scale and brands to create, package and deliver high-quality content worldwide through multiple distribution outlets. Whether measured by quality, popularity or financial results, our divisions are at the top of their categories. Home Box Office (HBO), Turner Broadcasting System and Warner Bros. Entertainment maintain unrivalled reputations for creativity and excellence as they keep people informed, entertained and connected. With Time Warner's Asia Pacific regional headquarters based in Hong Kong, Time Warner has a vested interest in the protections afforded by Hong Kong's copyright laws.

As technological advances and convergence are altering the traditional media industry, the development of online alternatives for delivery of digital content provides a new set of opportunities and challenges for global media and entertainment companies such as Time Warner. Time Warner and its divisions have been at the forefront of taking advantage of new digital platforms to satisfy growing consumer demand for flexible and portable access to content. However, the rampant growth of online piracy is a significant and tremendously difficult challenge faced by the entire media industry. While online piracy is undoubtedly a global challenge, as a result of Hong Kong's inadequate copyright laws which have not kept up with the growth of both the digital content and digital transmission industries, the problem of online piracy is exacerbated in Hong Kong.

Amendments to bring Hong Kong's copyright laws into conformity with the multilateral treaties made under the World Intellectual Property Organization (WIPO), more specifically, the introduction of a technology neutral right for copyright owners to help protect the electronic communication of their works, are long overdue. The ten year delay in formulating and passing the

necessary amendments to Hong Kong's copyright laws has resulted in the growth of online piracy problems far beyond the expectations of those who began this copyright review process over ten years ago, including both government and industry. Passage of the Bill is a small initial step toward modernizing Hong Kong's legal and enforcement regimes.

While we support the immediate passage of the Bill, we do have reservations with the proposed amendment to section 118 found in Clause 57 of the Bill. As there is no need to highlight any particular factor for the court's consideration, we suggest that the original language proposed for section 118 under the Copyright (Amendment) Bill 2011 be implemented.

We also recognize that certain groups in Hong Kong are seeking the inclusion of a Canadian style broad exception for user generated content (UGC) into the Bill. We consider that a fair dealing exception based on the Canadian approach would be premature and unnecessary, for the reasons outlined by Dr. Mihaly Ficsor in his article entitled "Why the Hong Kong Bill on Copyright Amendments is Right on the Issue of UGC" published in the August 2014 issue of the Hong Kong Lawyer (copy found here - <http://www.hk-lawyer.org/en/article.asp?articleid=2284&c=140>).

While we appreciate the spirit of openness displayed by the Bills Committee towards dealing with technological developments and online piracy challenges and are grateful for this opportunity to give our view of the situation to the Bills Committee, we urge the Bills Committee to support the enactment of the Bill as soon as possible, as a first step toward modernizing Hong Kong's copyright laws and addressing online piracy.

Yours sincerely,



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