



WARNER BROS.
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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 Warner Bros. Entertainment Inc. (WB), we are pleased to be given the opportunity to provide comments on the Bill.

WB stands at the forefront of the entertainment industry, with businesses ranging from feature film, TV and home entertainment production and worldwide distribution to home video, digital distribution, animation, comic books, licensing and broadcasting. The films released (or to be released) by WB in 2014 include *The LEGO Movie*, *Edge of Tomorrow* and *The Hobbit: The Battle of Five Armies*. With WB's Asia Pacific regional headquarters for its film, home entertainment and consumer products businesses based in Hong Kong, WB 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 entertainment companies such as WB. WB has been at the forefront of taking advantage of new digital platforms to satisfy growing consumer demand for flexible and portable access to content. WB licenses content to digital platforms and services using a variety of business models, with a view to facilitating legitimate access by purchasers of digital content across a variety of devices, including via download and streaming. 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.

A Time Warner Company

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.

Various changes in the area of copyright protection and enforcement have been implemented in several overseas jurisdictions in attempts to tackle online piracy and we suggest that the Bills Committee and Hong Kong Government refer to such overseas experience for guidance. Korea is an excellent example of how the Korean government, together with the local entertainment industry, successfully implemented measures to address online piracy. In 2007, it was estimated that the Korean film industry suffered losses of US\$1 billion as a result of online piracy, which was more than three times the losses estimated in 2005. In 2000, the value of the home entertainment market was US\$667 million but had decreased to one fourth of that amount by 2009. By 2008, all international studios' home entertainment divisions had closed down. In July 2009, the Korean government strengthened the Copyright Act with a series of amendments including the implementation of a graduated response "three strikes" policy to deter internet users from repeatedly uploading infringing content. The implementation of powerful legislation, together with educational campaigns, criminal actions against sites sharing infringing content and the timely availability of content have resulted in an extraordinary turn around in the media business for Korea. As of 2013 and compared to 2008, piracy has decreased 77%, home entertainment revenue has increased 284%, basic cable revenue has increased 199%, box office revenue has increased 158% and Korea now has one of the healthiest film industries in the world.

While the Bill does not implement any of the advanced protections seen in Korea, passage of the Bill is a necessary initial step toward modernizing Hong Kong's legal and enforcement regimes. Korea is a useful example of a government taking advanced measures to ensure that the necessary legislative framework is in place to address online piracy.

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.

Yours Truly,



David P. Kaplan