

Consultation document on the review of certain provisions of the Copyright Ordinance released

The government today (December 9) released a consultation document on the Copyright Ordinance to seek public views on a number of copyright-related issues which carry wide social implications, the Secretary for Commerce, Industry and Technology, Mr John Tsang, announced.

Speaking at a luncheon hosted by the Hong Kong Intellectual Property Society, Mr Tsang said the government fully recognised the importance of maintaining an effective legislative framework.

To further improve Hong Kong's legislative regime for protecting copyright, the government today released a consultation document on the review of certain provisions of the Copyright Ordinance.

"The issues covered in the consultation document all carry wide social implications and require a delicate balance to be struck between the interests of copyright owners and those of copyright work users," Mr Tsang said.

The consultation document sets out the main issues related to end-user criminal liability, copyright exemption and a number of other aspects in the Copyright Ordinance which require a review.

In particular, public views will be sought on whether and how more flexibility should be introduced in our existing approach of providing exemptions from copyright restricted acts in the Copyright Ordinance, and whether and how the scope of the existing criminal provisions related to end-user piracy should be expanded.

These issues need to be followed up after the Legislative Council's deliberation on a Bill in 2003 which seeks to, among other things, confine the scope of the end-user criminal liability to four categories of works, namely, computer programs, movies, TV dramas and musical recordings. Some copyright owners requested that the end-user criminal liability should also apply to other categories of copyright works, whereas some copyright work users requested that a non-exhaustive copyright exemption regime should be adopted before consideration could be given to

expanding the scope of end-user criminal liability.

“We note that expanding the scope of protection from end-user piracy will help foster the development of industries with a heavy copyright content. However, we must also be mindful of the community’s concerns about the free flow of information and the right to fair use of copyright works for purposes such as teaching and research,” Mr Tsang said.

Other important issues covered in the consultation document include whether end-user liability associated with parallel imported copies of copyright works should be relaxed; whether additional provisions should be introduced to control circumvention of technological copyright protection measures employed by copyright owners on digital copies of their works; whether a specific defence provision should be provided to employees against end-user criminal liability; and whether copyright owners of films should be given the exclusive right of commercial rental as in the case of sound recordings and computer programmes.

At the luncheon today, Mr Tsang also highlighted possible ways in which the problem of Internet piracy, including the sharing of infringing copies of copyright works such as movies and music through peer-to-peer (P2P) networks could be alleviated. He called on tripartite cooperation amongst the Government, copyright owners and Internet service providers to work together exploring possible solutions to the problem.

In particular, Mr Tsang said that in addressing the issue of infringing activities through P2P networks, the Government would step up publicity and public education on the possible civil liability of such activities under the Copyright Ordinance and enhance public awareness of the need to accord to digital copies of copyright works the same level of respect for intellectual property rights.

“In addition, the government will also continue to monitor how the P2P issue is addressed in other jurisdictions. In parallel, the government has engaged copyright owners, local Internet service providers to explore how the problem can be alleviated.

“In exploring possible measures, we need to be careful that we are aiming to prevent infringing acts rather than the concerned digital technology or infrastructure. Otherwise, we may be confronted with the unintended consequences of hindering the development of Hong Kong as an information technology hub and knowledge-based

city,” Mr Tsang said.

The consultation document on the review of certain provisions of the Copyright Ordinance is available at the websites of the Commerce and Industry Branch of the Commerce, Industry and Technology Bureau (www.info.gov.hk/cib), Intellectual Property Department (www.ipd.gov.hk) and the HKSAR Government (www.info.gov.hk).

The public is welcome to send their views to the Commerce and Industry Branch on or before February 15, 2005.

Ends/Thursday, December 9, 2004

NNNN