

FAQs on Copyright (Amendment) Ordinance 2007

Parallel Importation

Q1. Does the Copyright (Amendment) Ordinance 2007 (“the Amendment Ordinance”) bring any changes in relation to parallel importation? If so, when will these changes come into effect?

A.1 Yes. Prohibitions against importation and use of parallel imported copies of copyright works by business end-users have been partly relaxed by the Amendment Ordinance. The period in relation to which criminal sanctions will arise has also been shortened. These changes came into force on 6 July 2007.

Liberalization in the use of parallel imports

Q2. What is meant by parallel-imported copies of copyright work?

A2. Broadly speaking, parallel-imported copies of copyright works refer to copies of copyright works which were made with the authorization of the copyright owner in the place of manufacture and destined for a market outside Hong Kong; but were then imported into Hong Kong without the consent of the copyright owner in Hong Kong.

Q3. Will I incur any liability for bringing back to Hong Kong for my own personal use a book or a musical CD which I bought during my overseas trip?

A3. No. You are allowed to do so whether before or after the enactment of the Amendment Ordinance.

Q4. Will I incur any liability under the Copyright Ordinance for using a parallel-imported computer software in business?

- A4. No. Parallel imports of computer software products have been fully liberalized since 2003. There is currently no restriction on the importation or use of such parallel imports.
- Q5. Will I incur any liability for *importing* a parallel imported copy of copyright work for *use in business*?
- A5. If the parallel-imported copy is a computer software product, there has been no prohibition against importation or use of such product since 2003.

However, before the enactment of the Amendment Ordinance, importation (except for private and domestic use) of a parallel-imported copy of any other type of copyright work was prohibited under our law.

The Amendment Ordinance has partly relaxed the above prohibitions for the benefit of business end-users. As from 6 July 2007, a person will not incur any liability for *importing* or possessing a parallel-imported copy of copyright work for *use in business*, subject to the following restrictions –

- the parallel-imported copy should not be used for commercial dealing purposes; or
- if the parallel-imported copy of copyright work is a movie, TV drama, musical sound recording or musical visual recording, it should not be used for playing or showing in public.

Furthermore, educational establishments (including their libraries) may now import or possess for their use parallel imported copies of copyright works without resulting in any liability. They may also show or play parallel imported copies of movies, TV dramas,

musical recordings for their own internal educational or library purpose. However, the copies should not be used for commercial dealing.

Q6. Who will be able to enjoy the liberalization measure for parallel imports mentioned in [Q5](#) above?

A6. Here are some examples of business end-users who may enjoy the liberalization measure :

- (a) a lawyer is now allowed to import and possess parallel-imported reference books for his business use.
- (b) a magazine writer is now allowed to import and possess parallel-imported DVD movies for his own viewing for writing articles in magazines.

The liberalization measure mentioned in [Q5](#) above does not apply to certain business end users. Here are some such examples:

- (a) a restaurant operator is not allowed to import a parallel imported DVD movie for showing to customers in his restaurant. He could incur civil liability regardless of the time of first publication of the movie. If the DVD is imported within 15 months from the time the movie was first published anywhere in the world, the restaurant operator also renders himself criminally liable.
- (b) a karaoke operator is not allowed to import a parallel imported karaoke disc for use by its customers in the course of the karaoke's business. He could incur civil liability regardless of the time of first publication of the musical recording included in the disc. If the karaoke disc is imported within 15 months from the time the

musical recording was first published anywhere in the world, the karaoke operator renders himself criminally liable.

Q7. Will I incur any liability for trading in parallel imported copyright works after the Copyright Ordinance was amended?

A7. Yes. Before the Copyright Ordinance was amended, trading in parallel-imported copies of *any type of copyright work* (except computer software products) attracted civil liability. In addition, if the parallel-imported copies were imported within *18 months* from the time the work was first published anywhere in the world, the act itself also entailed criminal liability.

The Amendment Ordinance has shortened the 18-month criminal sanction period to *15 months*. Civil liability remains unchanged.

Hence, any person who trades in a parallel-imported copy of copyright work (other than a computer software product) could incur both criminal and civil liability if the copy was imported within 15 months from the first publication of the work anywhere in the world. If the copy was imported after 15 months from the first publication of the work anywhere in the world, he would still be subject to civil liability.

Q8. Will I incur any liability if I *buy* a parallel imported copyright work *for use in my business* (other than for the purpose of trading in it) after the Copyright Ordinance was amended?

A8. The act of purchasing a parallel-imported copy of copyright work will not by itself attract any liability under our copyright law whether before or after the passage of the Amendment Ordinance. As regards whether any liability will arise if the copy is used in business or used for trading, please refer to [Q4](#) and Q5.

Q9. Could I *hire* parallel-imported copies of copyright works after the Copyright Ordinance was amended?

A9. Before the Copyright Ordinance was amended, trading in (including letting for hire) parallel-imported copies of *any type of copyright work* (except computer software products) attracted civil or even criminal liability.

The liberalization measure as mentioned in [Q5](#) above only applies to business end-users. It does not apply if a parallel-imported copy is used for trading purposes (including hiring). You could incur civil or even criminal liability for hiring parallel imported copies of any copyright works (except computer software products). However, the Amendment Ordinance has shortened the criminal sanction period from 18 months to 15 months. Hence, a person could attract civil and criminal liability by hiring parallel imported copies of copyright work if the copies were imported within 15 months from the first publication of the work anywhere in the world. Even if the copies were imported more than 15 months from the first publication of the work anywhere in the world, he could still incur civil liability.

Q10. Will I incur any liability for using a parallel-imported copy of movie, TV drama, musical visual recording or musical sound recording for public showing in business?

A10. Yes. The liberalization measure as mentioned in [Q5](#) above does not apply if the above audio visual products are used (or intended to be used) for playing or showing in public. Hence, a person could attract civil and criminal liability if he uses a parallel-imported copy of movie, TV drama, musical visual recording or musical sound recording for public showing in business and the copy was imported within 15 months from the

first publication of the work anywhere in the world. Even if the copy was imported more than 15 months from the first publication of the work anywhere in the world, the person would still be subject to civil liability.