

## **Note for Non-profit Making Educational Establishments Relating to the Use of Copyright Works in the Course of Teaching and Learning**

### **Purpose**

This note reminds non-profit making educational establishments of the importance of compliance with copyright law when copying and distributing printed copyright works in the course of teaching and learning. It also sets out some suggested good practices which would help avoid inadvertent piracy.

### **Background**

2. Under the existing law, non-profit making educational establishments may, subject to certain permitted acts<sup>1</sup> provided under the Copyright Ordinance (Cap 528), incur **civil or even criminal liability**<sup>2</sup> if they make or distribute an infringing copy of printed works without obtaining proper licences.

3. To guard against inadvertent piracy, non-profit making educational establishments are advised to ensure compliance with the copyright law in copying and distributing printed copyright works in the course of teaching and learning. Below are some suggested good practices which they may adopt to promote awareness of and respect for copyright amongst staff members.

### **Good Practices**

#### *Licensing Agreements*

4. For non-profit making educational establishments that need to copy and/or distribute copyright works contained in printed works, the responsible staff should ensure that (i) appropriate licences have been obtained from the relevant copyright owners or licensing bodies representing the owners (such as the *Hong Kong Reprographic Rights Licensing Society Limited* (HKRRLS) which grants licences for various publication including books, periodicals etc<sup>3</sup>, and the *Hong Kong Copyright Licensing Association* (HKCLA) which grants licences for works in a number of local

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<sup>1</sup> The statutory permitted acts include fair dealing for purposes of giving or receiving instruction, etc. Please refer to [http://www.ipd.gov.hk/eng/intellectual\\_property/copyright/faqs\\_copyright\\_exemptions\\_e.pdf](http://www.ipd.gov.hk/eng/intellectual_property/copyright/faqs_copyright_exemptions_e.pdf) and [http://www.ipd.gov.hk/eng/intellectual\\_property/copyright/workshop/clarifying/Eng\\_guidelines\\_040604.pdf](http://www.ipd.gov.hk/eng/intellectual_property/copyright/workshop/clarifying/Eng_guidelines_040604.pdf) for information.

<sup>2</sup> Under s.118(1)(g) of the Copyright Ordinance, a person (including a non-profit making educational establishment) may render himself liable to criminal prosecution if he distributes an infringing copy of a copyright work to such an extent as to affect prejudicially the copyright owner. Whilst the new criminal offence prescribed in s.119B(1) of the Copyright Ordinance (or what is more commonly known as the business end-users “Copying and Distribution Offence”) does *not* apply to non-profit making educational establishments, **civil liability** may still arise should they make or distribute an infringing copy of printed works without obtaining proper licences.

<sup>3</sup> For the licences granted by HKRRLS, please refer to the Education Bureau’s webpage (<http://www.edb.gov.hk/index.aspx?langno=1&nodeID=7322>). The licences are applicable to primary and secondary schools.

newspapers and magazines<sup>4</sup>); and (ii) the terms of each licence still in use remain appropriate for covering the copying and distribution activities in question.

### *School Policy and Staff Awareness*

5. Upon obtaining appropriate licences, school management should clearly set out (preferably in writing and as a matter of school policy) that all staff members must duly comply with the terms of the licences in making and/or distributing copies of printed publications. The school policy as well as the terms of the licences should be publicised and made known to all staff members. This is important for facilitating observance of the **permissible limit under the licences**<sup>5</sup> for copying/distribution.

### **Further Information**

6. For further details, please visit the relevant webpages of the Intellectual Property Department via the following links -  
[http://www.ipd.gov.hk/eng/intellectual\\_property/copyright/copy\\_edu.htm](http://www.ipd.gov.hk/eng/intellectual_property/copyright/copy_edu.htm)  
[http://www.ipd.gov.hk/eng/intellectual\\_property/copyright/copyright\\_ordinance.htm](http://www.ipd.gov.hk/eng/intellectual_property/copyright/copyright_ordinance.htm)

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<sup>4</sup> For the licences granted by HKCLA, please refer to the Education Bureau's webpage ([http://www.edb.gov.hk/FileManager/EN/Content\\_5565/edbcm1582009-eng.pdf](http://www.edb.gov.hk/FileManager/EN/Content_5565/edbcm1582009-eng.pdf)). The licences are applicable to kindergartens, primary and secondary schools.

<sup>5</sup> For instance, in the licence granted by HKRRLS for subsidised primary schools, it is stated that each of the licensees shall not, in any academic year, (a) copy from more than three textbooks in relation to the same course and (b) with respect to each textbook, copy more than 5% of the number of pages of the textbook.