

**For discussion on
16 May 2017**

**Legislative Council
Panel on Commerce and Industry**

**Copyright Exceptions for People with a Print Disability under
the “Marrakesh Treaty to Facilitate Access to Published Works for Persons
Who Are Blind, Visually Impaired or Otherwise Print Disabled”**

PURPOSE

The Government launched a three-month consultation exercise on 9 May 2017 to gauge views on areas in the relevant provisions in the Copyright Ordinance (Cap. 528) which might need to be amended to align with the Marrakesh Treaty to facilitate access to published works for persons who are blind, visually impaired, or otherwise print disabled. A copy of the consultation paper is at [the Annex](#) for Members’ reference.

BACKGROUND

2. “The Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled” (“Marrakesh Treaty”) came into force in September 2016. It is an international agreement concluded under the auspices of the World Intellectual Property Organization (WIPO). Its main goal is to facilitate and enhance access to copyright works in accessible forms for persons with a print disability.

3. In gist, the Marrakesh Treaty requires contracting parties to provide for limitations or exceptions in their domestic laws such that: (a) persons with print disabilities and certain organizations may perform a range of acts in relation to certain types of copyright works for the benefit of those beneficiaries without infringing copyright if certain conditions are met; and (b) exchange of accessible format copies of works produced as provided under the Marrakesh Treaty is allowed across international borders.

4. As at April 2017, 27 countries have ratified or acceded to the Marrakesh Treaty. The number is expected to rise. With the Marrakesh Treaty coming into force, there has been an increasing demand from the local community for an enhanced copyright regime in line with the Marrakesh Treaty. While the existing Copyright Ordinance (Cap. 528) has set out a series of

copyright exceptions to serve the needs of persons with a print disability, and the existing exceptions largely conform to the requirements under the Marrakesh Treaty, the Government agrees that it is the appropriate time to conduct a review of the existing copyright exceptions¹ for persons with a print disability under the Copyright Ordinance to ensure that they can comply with the latest international standards under the Marrakesh Treaty.

CONSULTATION

5. To tie in with the consultation exercise, the Government issued a consultation paper on 9 May 2017, seeking public views on a number of issues, as listed below, which require further review:

- (i) the scope of “beneficiary person”;
- (ii) the scope of “specified body”;
- (iii) the types of copyright works covered by the print disability-related exceptions;
- (iv) the acts which could be performed by persons with a print disability and/or specified bodies;
- (v) the conditions to be met under the existing provisions;
- (vi) the application of anti-circumvention of technological measures provisions; and
- (vii) cross-border exchange of accessible copies².

6. The consultation exercise will last for three months, up to 9 August 2017. During the consultation period, the Government will reach out to key stakeholders including users’ groups and copyright owners to gauge views. We will carefully consider comments received before taking a policy decision on whether and how we should amend the Copyright Ordinance to align it with the Marrakesh Treaty.

ADVICE SOUGHT

7. We look forward to the views of Members on the issues set out in the consultation paper.

**Commerce and Economic Development Bureau
Intellectual Property Department
May 2017**

¹ Sections 40A to 40F of the Copyright Ordinance, enacted in 2007, contain specific exceptions that allow for the production of specially adapted copies of copyright works for their use.

² Marrakesh Treaty adopted the defined term “accessible format copy”, whereas the existing Copyright Ordinance (Cap. 528) adopted the defined term “accessible copy”. They basically encompass the same meaning.