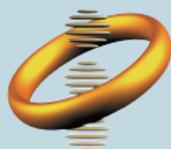


Copyright (Amendment) Ordinance 2022 ("Amendment Ordinance")

Communication Right for Copyright Owners

(Effective on 1 May 2023)



Intellectual Property Department
The Government of the Hong Kong
Special Administrative Region

The emergence of new modes of electronic content uses and transmission as a result of advances in technology gives copyright owners a wider choice of electronic or digital avenues to disseminate their works.

To offer copyright owners a more robust and comprehensive protection to exploit their works in the digital environment, the Amendment Ordinance introduces a **new communication right for copyright owners**.

The law before 1 May 2023

Copyright owners have the following various exclusive rights in respect of their works —

- make their works available to the public on the Internet
- broadcast their works
- include their works in a cable programme service

The law starting on 1 May 2023

The rights above are subsumed under the **NEW communication right for copyright owners**



What is Communication Right?

A **technology-neutral exclusive right** for copyright owners to communicate their works to the public through **any mode of electronic transmission**.

Examples of **acts of communication of a work** to the public:



Streaming of any copyrighted music, movie or TV drama to the public for listening or watching on demand or live

Uploading of a copyright work to a website for access by the public



Taking any active step to capture or process any electronic transmission signal or data for unaltered re-transmission via the Internet

Examples of common and reasonable online behaviours which do **not** constitute communication of a work to the public:



Mere forwarding or sharing of a hyperlink to/amongst peers



Mere viewing of or access to online materials



Clicking on a link to gain access to a web

Possible legal liability for unauthorized communication of a copyright work to the public

- **Civil liability**

Copyright owners may take legal actions



- **Criminal liability**

If the relevant communication is:

- for or in the course of any trade or business consisting of communicating works to the public for profit or reward; or
- to such an extent as to affect prejudicially the copyright owners.

- ▶ **What is meant by "communicating a work to the public to such an extent as to affect prejudicially the copyright owner"?**

The court may examine all the circumstances and, in particular, whether the relevant communication has caused any economic prejudice to the copyright owner (having regard to whether such communication amounts to a substitution for the work in question).

Maximum Penalty:
\$50,000 fine (per each work being infringed),
and 4-year imprisonment



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