

# Copyright (Amendment) Ordinance 2022

## New Copyright Exception for Caching

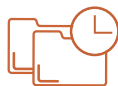
## New Safe Harbour Regime (Effective on 1 May 2023)



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

# New Copyright Exception for Caching

Allows an Online Service Provider (OSP) to make and store a temporary copy of a copyright work ("caching") without the copyright owner's licence solely for enabling more efficient transmission of the work by the OSP, subject to compliance with certain technical conditions.



## New Safe Harbour Regime

### Benefits



Provides incentives for OSPs to cooperate with copyright owners in combating online piracy



Provides an alternative mechanism to resolve online piracy disputes outside the court



Balances the legitimate interests among copyright owners, OSPs and copyright users :



## Copyright Owners

Combats online piracy efficiently and effectively

## OSPs



Exempts OSPs' pecuniary liability for copyright infringement on their service platforms upon their compliance with certain conditions

## Copyright Users



Allows dispute of alleged infringement and prevents any unwarranted removal of online materials

## Features

An OSP is **not liable for monetary damages for copyright infringement** on its service platform merely because it provides or operates facilities for online services, **if the OSP complies with prescribed conditions**, including that **the OSP** —

- ▶ has **taken reasonable steps to limit or stop the copyright infringement** as soon as practicable upon notice or became aware of the infringement.



- ▶ has **not received any financial benefit directly attributable to the infringement.**



Copyright owners have to provide prescribed information to substantiate their notices of alleged infringement, otherwise OSPs are not required to handle the notices.



OSPs are not required to actively police their service platforms for infringing activities.



Individual subscriber can opt against OSP's disclosure of his/her personal data to the complainant.



To prevent abuse, anyone making false statements in a notice of alleged infringement or counter notice may incur civil and criminal liabilities.

## Code of Practice

The safe harbour provisions are underpinned by a **Code of Practice** (February 2023) containing a set of practical guidelines and procedures which OSPs may follow to limit or stop an alleged online piracy upon receipt of a notice of alleged copyright infringement.

### Two main mechanisms:



#### 1. “Notice and Notice” system

An OSP has to forward to its subscriber a notice of alleged copyright infringement received from a copyright owner.



#### 2. “Notice and Takedown” system

An OSP has to remove the alleged infringing material, or disable access to such alleged infringing material or the alleged infringing activity on its service platform, upon receipt of a notice of alleged copyright infringement from a copyright owner.

Please visit  
[www.ipd.gov.hk](http://www.ipd.gov.hk)

