

Government seeks public views on strengthening copyright protection in digital environment

The Government today (December 19) released a consultation document to review if the existing legislative framework needs to be improved for more effective copyright protection in the digital environment.

Launching the consultation exercise today, the Secretary for Commerce, Industry and Technology, Mr Joseph WP Wong, said the Government was committed to providing an environment conducive to the sustainable development of our creative industries.

He noted that with advances in technology in recent years, there was a need to put in motion early a review of the efficacy of the copyright protection regime in the digital environment.

“Following the introduction of the Copyright (Amendment) Bill 2006 into the Legislative Council in March 2006, we are now launching the next phase of our review of the copyright law in order to meet the challenges facing us in the digital era,” Mr Wong said.

Mr Wong pointed out that the Government had been adopting a multi-pronged approach to tackle the Internet piracy problem. This included maintaining an effective legal framework to accord protection to copyright works; taking vigorous enforcement actions against online piracy activities; and undertaking continuous public education activities to promote respect for copyright in the digital environment.

“In conducting the review, the Government is mindful of the need to balance competing interests, including possible concerns about the adverse implications that enhanced copyright protection may have on the dissemination of information, protection of personal privacy, and the development of Hong Kong as an Internet service hub,” Mr Wong stressed.

One of the issues for consultation is whether and if so how the scope of criminal liability should be expanded to combat unauthorised uploading and downloading activities in Hong Kong. This is in response to copyright owners’ concerns that technological advances in recent years including the

emergence of peer-to-peer technology have made it possible for large-scale copyright infringements to occur instantly.

Another issue for consultation is whether an all-embracing right of communicating copyright works to the public should be given to copyright owners under our copyright law, thereby ensuring that copyright works are adequately protected irrespective of the technology that may be used to transmit the works now or in the future.

The consultation document also examines the role of online service providers (“OSPs”) in relation to combating Internet piracy. Issues raised in the consultation document include whether a new form of liability for OSPs should be introduced for infringing activities occurring on their service platforms, and if so, whether there should be limitation to such liability under specified circumstances, including the introduction of a system to enable efficient takedown of infringing materials on the Internet, or blocking of access to such materials.

Public views will also be sought on how the Government could facilitate copyright owners in taking civil action against online infringers. These include whether a relatively quicker and inexpensive procedure should be provided for copyright owners to obtain from Internet Access Service Providers (“IASPs”) information disclosing the identity of online infringers; and whether IASPs should be required to keep records of clients’ online activities for a specified period.

Other issues covered in the consultation document include whether statutory damages should be introduced for copyright infringement and whether the existing copyright exemption provisions in our copyright law for temporary reproduction of copyright works should be expanded.

“The issues covered in the consultation document are complicated and carry wide social implications. To facilitate informed discussions, we have set out in the consultation document how other jurisdictions handle similar issues, the possible options for addressing the issues and relevant considerations surrounding the various options,” Mr Wong said.

“The Government has an open mind on how the various issues raised in

the consultation document should be addressed. We hope that following a full and informed discussions we could command a broad consensus within the community that would help us to strike a reasonable balance between competing interests,” he said.

The consultation document can be downloaded from the website of the Commerce and Industry Branch of the Commerce, Industry and Technology Bureau, www.citb.gov.hk/cib. Views should be sent to CIB on or before April 30, 2007 by email: co_review@citb.gov.hk, by fax: 2869 4420, or by post to Level 29, One Pacific Place, 88 Queensway, Hong Kong for attention of Division 3, Commerce and Industry Branch.

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