

LCQ13: Rental licensing schemes for films and comic books

Following is a written reply by the Secretary for Commerce and Economic Development, Mr Frederick Ma, to a question by the Hon Lau Kong-wah in the Legislative Council today (January 9):

Question:

The Copyright (Amendment) Ordinance 2007, enacted in June last year by this Council, introduces rental right provisions under which copyright owners of films and comic books are empowered to levy copyright royalties on the rental business of video discs and comic books. The film and comic book industries are currently negotiating with rental shops of such articles on the introduction of rental licensing schemes and, depending on the progress of the negotiation, the authorities will determine a date for the relevant provisions to come into operation. In this connection, will the Government inform this Council:

(a) of the respective current numbers of video disc and comic book rental shops in the territory and, among these shops, the respective percentages of those which are chain stores;

(b) whether it knows the details of the rental licensing schemes proposed by the film and comic book industries (such as how far the selling price of the rental version will exceed that of the retail version for the same video disc or comic book), and the number of rental shops taking part in the negotiation;

(c) how it will ensure small rental shops can still survive after the relevant provisions have come into operation and safeguard the market from being monopolised by rental chains; and

(d) given that the operators of some small rental shops have just entered into new tenancy agreements with their landlords, whether it will consider deferring the relevant provisions coming into operation to allow these operators a longer transitional period to make suitable arrangements?

Reply:

Madam President,

The Copyright (Amendment) Ordinance 2007 (the "Amendment Ordinance") offers more flexible copyright exemption to users on the one hand, and enhances the protection afforded to copyright owners on the other. The enhanced protection includes the introduction of rental rights

for films and comic books. Under the Amendment Ordinance, anyone who intends to conduct commercial rental activities in relation to films and comic books has to obtain prior authorisation from the copyright owners. Otherwise, he renders himself liable to civil claims. The relevant provision has no retrospective effect. In other words, upon the coming into effect of the relevant provision, rental shops could continue to rent out the retail versions of video discs and comic books that were acquired before the commencement date (i.e. the existing stock). Only rental activities relating to video discs and comic books acquired on or after the commencement date are subject to authorisation by the copyright owners. This being the case, the Administration believes that the impact that the new provision may have on rental shops should be mild and incremental.

The provision on rental rights for films and comic books is yet to come into operation. The Government is encouraging copyright owners to work out with the operators of rental shops early a mutually acceptable rental licensing scheme so that the rental shops could carry on with their business in a lawful manner upon commencement of the relevant provision whilst the copyright owners could obtain a reasonable return.

Our replies to parts (a) to (d) of the question are as follows:

(a) At present, apart from general business registration, the operation of video disc and comic book rental shops does not require specific registration. Hence, we do not have official statistics on the number of video disc and comic book rental shops operating in the territory. The latest information furnished by the Hong Kong Video Development Foundation Ltd. ("HKVDF") and the Hong Kong Comics & Animation Federation Limited ("HKCAF") suggests that about 500 and 220 shops are currently engaging in rental business relating to video discs and comic books respectively. It is estimated that over 70% of these shops are not operated in the form of chain stores.

(b) Upon enactment of the Amendment Ordinance in mid-2007, the major groups of copyright owners for films or the exclusive licensees started to work out the rental licensing arrangements. The comic book industry is also taking the matter forward. We understand that the HKVDF had sent a mail to all known rental shops to brief and consult them on the issue. Two briefing sessions were held in August and December 2007 for presenting the proposed rental licensing scheme to stakeholders. About 150 representatives from rental shops attended the two sessions. We note that the HKVDF has made a number of amendments to its proposed scheme after listening to the views of the shop representatives. These include lowering the price ceiling for rental version of video discs to

200% of the retail version, as opposed to 300% as originally proposed. As regards comic books, the HKCAF is actively hammering out the rental licensing scheme and will announce the details in due course. Rental licensing is a commercial act. To avoid interfering with the free operation of the market, the Administration considers it inappropriate (and hence does not seek) to get involved in determining the level of royalties payable.

(c) The Administration will keep in view the progress made in rolling out the rental licensing schemes for films and comic books. We will facilitate the two-way dialogue between the copyright owners and rental shop operators as and when necessary, with a view to bringing about a mutually beneficial scheme early. There are provisions in the Amendment Ordinance that empower the Copyright Tribunal to deal with and arbitrate in matters pertaining to the rental licensing schemes for films and comic books.

(d) The Administration started to examine proposed amendments to the Copyright Ordinance since 2004. In the process, we had consulted the industry on the rental rights issue on a number of occasions. Moreover, immediately following the passage of the Amendment Ordinance in mid-2007, copyright owners of films started to work out the details of a rental licensing scheme, thus allowing time for rental shop operators to get prepared for the implementation of the relevant provision. The Administration will continue to monitor the progress made in rolling out the rental licensing schemes. The relevant panel of the Legislative Council will be consulted before a final decision is made regarding the date for bringing the relevant provision into operation.

Ends/Wednesday, January 9, 2008