

Legislative proposals on numeric limits in relation to copying and distribution offence introduced

The Government will introduce into the Legislative Council the Copyright (Amendment) Bill 2009, which prescribes, in new schedules to the Copyright Ordinance, the proposed numeric limits within which the copying and distribution offence will not apply and the exclusion of Intranet distribution. The Bill will be published in the Gazette on Friday (April 24).

The copying and distribution offence was added to the Copyright Ordinance in June 2007. A person commits an offence if they, for the purpose of or in the course of any trade or business and on a regular or frequent basis, without the licence of the copyright owner, makes for distribution or distributes an infringing copy of a copyright work in a printed form contained in a book, a magazine, a periodical or a newspaper resulting in a financial loss to the copyright owner. The provision is yet to come into operation, pending the prescription of the numeric limits.

The numeric limits in the Bill have been drawn up after extensive consultation with the relevant stakeholders, including the Hong Kong Copyright Licensing Association, representing major newspaper and magazine publishers, and the Hong Kong Reprographic Rights Licensing Society, representing major book and journal publishers.

The proposed numeric limits are as follows :

(a) for newspapers, magazines and periodicals (excluding academic journals), a maximum of 500 A4-size pages embodying infringing copies of copyright works within any 14-day period; and

(b) for books and academic journals, a maximum total retail value of \$6,000 within any 180-day period, where the retail value of a book (or an academic journal) or an article in an academic journal would be counted towards the total retail value when the user makes for distribution or distributes infringing copies of more than 25% of the number of pages of the book (or the academic journal), or makes for distribution or distributes infringing copies of a complete copy of the article.

Business end-users are reminded that while the copying and distribution offence will not apply if the extent of copying or distribution is within the prescribed limits, they remain liable to civil claims from copyright owners if they make for distribution or distribute copies of printed copyright works without an appropriate licence.

Ends/Wednesday, April 22, 2009