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主旨: Petition by record labels in HK to call for term extension

Honorable Intellectual Property Department, the Government of Hong Kong Special Administrative Region

The recording industry of Hong Kong welcomes the Government of Hong Kong's initiatives to progress the amendment of the Hong Kong Copyright Ordinance and thank the Government for the opportunity to participate in the corresponding public consultation. At this historical and important moment, Hong Kong's recording industry appeals to the Government to extend the term of copyright protection for sound recordings from 50 years to at least 70 years.

Music entertainment companies in Hong Kong, most of which are record companies, have experienced a challenging time in recent years. In Hong Kong's music market, the revenue of physical albums for record companies has declined year after year. Affected by the COVID-19 pandemic, a large number of live music activities in the past two years have been postponed or cancelled, causing substantial losses to these companies and making the industry considerably anxious. Record companies' income from performance rights is also suffering a sharp decline.

According to data in IFPI's Global Music Report 2021, although the revenue of digital music in Hong Kong increased in 2020, the total revenue of recorded music still decreased by 5%, that is, decreasing by US \$3.1 million. Some companies based in Hong Kong that have operated in the recording industry for many years have been forced to close or still face the risk of closure. In this context, support by the Government to extend the term of protection for sound recording to at least 70 years will help the market to return to stability, and will help these companies to rebuild trust and confidence to overcome the difficulties.

This is primarily because a 70-year term of protection will provide for a longer potential economic life of a sound recording. In turn, this will increase investments while providing recording artists with the security of knowing that their recordings have the potential to generate income during their lifetime. Further, a 70-year term of protection will incentivise record companies to continue to invest in updating and restoring their catalogues in new formats and making them available from new services. Therefore, a longer term supports the development of the Hong Kong music industry.

Without the extension of the term of protection, iconic music catalogues are set to fall out of copyright protection. An extension to 70 years would enable record companies and artists to benefit from the growing digitization of music exploitation for another 20 years, and allow Hong Kong and its citizens to fully benefit from the rich music heritage of Hong Kong.

In contrast, a term of only 50 years will unfairly benefit overseas distributors and penalise record companies and artists. For example, new technology has given older sound recordings originally fixated in tapes and LP records a new digital lease of life, generating revenues without any of the benefits accruing to the original owners and creators of these recordings.

By way of illustration of the alarming situation caused by a 50-year term, sound recordings published before 1972 have entered into or are going to enter into the public domain in mainland China where many of Hong Kong's record companies are doing business. This is of particular concern, since a significant number of popular sound recordings produced in the late sixties and seventies in Hong Kong have lost or are about to lose copyright protection. Loss of copyright protection for these recordings would cause severe economic losses to Hong Kong's record companies and will reduce the ability of record companies to invest in new artists, adversely impacting the development of Hong Kong's recording industry.

It is also important to note that, in recent years, a term of protection for sound recordings of 70 years or longer has become the new international standard across the globe, being adopted in at least 69 countries and regions, including the United States, Canada, the United Kingdom, all EU member states, Australia, Japan, and South Korea, etc. Since the term of protection for sound recordings of 70 years or above has become the international standard, consistency of these terms across different copyright systems, including between Hong Kong and many developed countries, is highly recommended, particularly considering the large amount of copyright trade that Hong Kong's companies undertake with these other countries and regions. In this regard, the extension of term from 50 to at least 70 years in Hong Kong's copyright regime is strongly encouraged.

Hong Kong's recording industry strongly encourages the Hong Kong Government to, consider extending the term of protection for sound recordings from 50 years to at least 70 years - in view of the recording industry's immediate, practical needs and in order to realize the very core purpose of copyright law – to incentivize the creation and dissemination of works.

Thanks very much

Hong Kong Recording Industry Alliance on behalf of its members:

Beggars Group Media Ltd.
bma Records Limited
Domino Recording Co. Ltd.
EAS Muisc Limited
Equilibrium S.R.L.
Firstworks Music Asia Pacific Limited
Frenzi Music Limited
Fu Music Limited
Global Master Rights CV
Gold Typhoon Entertainment Limited

Lime Blue Music Limited
Liquid State Limited
Orchard Enterprise NY, Inc.
Playground Music Scandinavia
Roland Voss Music Production
Smilax Publishing Srl
Sony Music Entertainment Hong Kong Limited
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