

Treatment of Parody
Main Topic

Carman KM
HO/CITB/HKSARG
05/12/2013 11:30

Subject: S1086_Geoffrey Lau (Composers and Authors Society of Hong Kong Ltd)

Category:

Originator	Reviewers	Review Options	
Carman KM HO/CITB/HKSARG	G	Type of review:	One reviewer at a time
		Time Limit Options:	No time limit for each review
		Notify originator after:	final reviewer

CASH Submission on Treatment of Parody under the Copyright Regime

to: co_consultation@cedb.gov.hk

15/11/2013 16:56

From:

To: <co_consultation@cedb.gov.hk>

15 November 2013

Dear Sir / Madam,

Kindly find the subject enclosed.

Yours faithfully,
For and on behalf of
Composers and Authors Society of Hong Kong Ltd

Geoffrey Lau
Head of Strategic Planning

Direct Tel

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CASH Submission to CEDB re Parody 131115.pdf



Submission
to the Commerce and Economic Development Bureau
on the Treatment of Parody under the Copyright Regime

We, the Composers and Authors Society of Hong Kong, would like to make our submission on the captioned as follows :-

Introduction

1. We are a music copyright society representing people who write melodies and lyrics, commonly known as composers and lyricists. On their behalf, we administer their music copyright in the context of public performance, broadcast and online usage. In addition to composers and lyricists, we also represent music publishers with which composers and lyricists are affiliated.

Our view

2. It is a matter of consent. Composers and lyricists, being the ones who created their works, should at least be consulted and be given the chance to either agree or disagree before their works are taken for parody use. Such agreement may not necessarily come with a licence fee but the creators will at least expect to have a say on parody use of their creation.
3. The opposing argument may say such approval process is too complex or it is hard to locate the right-owners. But the alleged difficulties are not insurmountable. Efforts should be made to facilitate and realize such approval process rather than to unfairly deprive the right-owners' legitimate control of their intellectual property.
4. By maintaining this approval process, we do not see the freedom of expression diminished by any degree. Even when a parody request is rejected, the message intended to be delivered can still be independently made without parody use of a pre-existing copyright work. We therefore do not see any conflict between copyright protection and freedom of expression.
5. Among the 3 options proposed by the Government, we only support the first 2 options, i.e. clarifying the existing general provisions for criminal sanction and introducing a specific criminal exemption for parody. For the former, the proposed legislative language is agreeable to us. For the latter, the proposed legislative language incorporating "parody" only is agreeable to us. As for whether "parody" should be defined, we consider ordinary dictionary meaning will suffice.

6. We should specifically point out that “monetization” of videos on YouTube type of online platforms should be considered commercial exploitation and should not be exempted from both civil and criminal liabilities. By “monetization” of videos, it refers to giving consent to an online platform allowing it to place advertisement(s) on (or next to) the video(s) uploaded to that online platform. The party who uploads the video(s) will then be able to share advertising income with the online platform.
7. In the course of studying this topic of parody, we did notice a relatively small number of music writers taking the view that free parody use of their works were welcomed. We therefore suggest an official and open platform be set up for copyright owners who are willing to do so to put up their works for free parody purpose. This platform may not be limited to melodies and lyrics but may also cover different types of copyright works.
8. In circumstances where parody use is allowed (no matter through an approval process or via the platform proposed in paragraph 10), we consider that moral right of the creators should be maintained unless it is explicitly waived. This is a matter of respect to the creators.

We respectfully submit the above opinion for the Government’s consideration.

Date of Submission : November 15, 2013