

**Treatment of
Parody**
Main Topic

Sherry YIP/CITB/HKSARG
06/12/2013 16:19

Subject: S1288_John Batten (AICAHK)
Category:

Originator	Reviewers	Review Options	
Sherry YIP/CITB/HKSAR G		Type of review:	One reviewer at a time
		Time Limit Options:	No time limit for each review
		Notify originator after:	final reviewer

From:
To: co_consultation@cedb.gov.hk
Date: 15/11/2013 20:43
Subject: Submission on Parody

Dear Sir/Madam
See attached submission from AICAHK.
Kind regards - John Batten

JOHN BATTEN

Postal Address:



Parody Consultation 2013.doc

13 November 2013

The Director

Commerce, Industry & Tourism Branch

Commerce and Economic Development

23/F, West Wing, Central Government Offices

Hong Kong

Dear Sir / Madam

Re: Consultation on the Treatment of Parody under the Copyright Regime

The International Association of Art Critics in Hong Kong (AICAHK) is an active member of AICA International, based in Paris, under the patronage of UNESCO.

Universal principles of freedom of expression are important when discussing artistic and creative freedom. The Universal Declaration of Human Rights ratified by the General Assembly of the United Nations in 1948 and fully endorsed by AICA International and AICAHK, includes the following Articles:

Article 19. Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 27. (1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.
(2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

We in Hong Kong are protected by the rule of law and our Association believes that the above principles of human rights should be uppermost in considering to amend present copyright legislation. As art critics we believe that artistic and creative expression should be allowed to flourish in an atmosphere free of persecution and that the creative use of imagery turned into parody should not be restrained.

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Certainly, the intellectual property and copyright rights of others should be protected as described in paragraph 26(a) of your consultation paper:

“ (a) fair balance between protecting the legitimate interests of copyright owners and other public interests, such as reasonable use of copyright works and freedom of expression, should be maintained.”

Within this principle of fair balance, we believe that the current legislation already gives adequate and reasonable protection in any infringements of copyright. Paragraphs 11 to 16 in your consultation paper outline the current situation and we support the *status quo* of Option 1 in your consultation paper.

We, however, believe that Option 2 in the consultation paper of introducing a specific exemption of criminality for parody should be incorporated in any copyright legislation amendment. We take a liberal approach and do not support that a statutory definition of “parody” be included in an amended ordinance. Furthermore, we believe that criminal exemption should cover all subject matter (e.g. political and social situations; and, parody on individual persons and groups etc) without prejudicing the principle of fair balance as outlined above.

In the annexes of the consultation paper there is proposed wording to amend the current ordinance – we will make further comment, once this wording has been further clarified.

If you have any further queries please do not hesitate to contact me at: John Batten: PO Box

Tel: Email:

We urge that you take our comments into account when considering any amendments to current copyright legislation. The members of AICAHK are happy to make an oral presentation at future meetings of the Legislative Council or to meet your Departmental officials.

Yours sincerely

John Batten

President, International Association of Art Critics Hong Kong (AICAHK)