

**Treatment of
Parody**
Main Topic

Sherry YIP/CITB/HKSARG
03/12/2013 11:15

Subject: S0740_Hong Kong Civil Liberties Union (HKCLU)
Category:

Originator	Reviewers	Review Options	
Sherry YIP/CITB/HKSARG		Type of review:	One reviewer at a time
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		Notify originator after:	final reviewer

From:
To: co_consultation@cedb.gov.hk
Date: 14/11/2013 23:02
Subject: HKCLU's submission on Parody Treatment Under the Copyright Regime

Dear Sir/ Madam,

Attached please find our submission on the Treatment of Parody under the Copyright Regime.

Thank you for your attention.

Best regards,

Hong Kong Civil Liberties Union (HKCLU)



HKCLU Parody Treatment Submissions.pdf

Submissions on the Treatment of Parody under the Copyright Regime

Hong Kong Civil Liberties Union (“HKCLU”) welcomed the government to provide exemptions to certain types of creations. However, the exemptions proposed under the consultation paper are not wide enough to correspond to the widening of the power under the Copyright (Amendments) Bill 2011 (the “Bill”).

Therefore, HKCLU supports adopting the Option 3, providing the fair dealing exemptions to comments on current events, parody, satire, pastiche and caricature, together with the Option 4 proposed by the Copyright and Derivative Works Alliance (the “Alliance”), a non-profit making User-Generated Contents (“UGC”) exemption to be adopted.

A UGC exemption is absolutely necessary. The Bill will widen its power to catch more copyright infringement or piracy activities by adopting a technology-neutral term, “communications”, however, it does not provide enough exemptions to protect the freedom of expression and freedom of speech for normal citizens. Without providing such exemption, the Bill will never get rid of its stigma, Internet Article 23. Therefore, a non-profit making UGC exemption is absolutely necessary to be adopted to provide enough protection to the citizens.

The non-profit making UGC is the only way to provide enough protection of the freedom of expression and freedom of speech. None of the proposed options under the consultation paper provides enough protection. We concur with the submissions by the Alliance. We would like to add that limiting the exemptions to certain means of creation will result in undesirable outcomes. It is because there are always new ways of expression in the future. The government will be required to revisit the exemptions frequently. In order to preempt the future possibilities, a less specific and a more neutral exemption should be adopted, i.e. a non-profit making UGC exemption. This not only saves the foreseeable arguments on what types of creation should be exempted but also saves the time to amend the laws on what should be exempted.

HKCLU agrees that the Option 4 will be able to pass the three-step test under the international treaty. At the same time, the government must not shift its burden and should take a proactive approach to respond to the request of adopting a UGC exemption. If the government disagrees with the analysis of the Alliance, the government is responsible to counter-propose a UGC exemption that, in their opinion, passes the three-step test.

In conclusion, HKCLU supports the adoption of Option 3 together with the Option 4 proposed by the Alliance.

Dated 15th November 2013

Hong Kong Civil Liberties Union