



Country Report Hong Kong

Annual report to the IFLA CLM committee
Gothenburg Sweden 2010

Copyright

In addition to business end-user criminal liability in possessing infringing copies of computer programs, movies, TV dramas and musical recordings, a new business end-user criminal offence against the making for distribution, or distribution, of infringing copies of copyright works in four types of printed works, namely newspapers, magazines, periodicals and books has been made effective in July 2010.

This “copying and distribution offence” will apply if:

- the extent of infringing copies made or distributed exceeds the numeric limits prescribed by the Copyright Ordinance;
- the infringing acts are conducted on a frequent or regular basis for the purpose of or in the course of any trade or business; and
- financial loss is caused to the copyright owner concerned.

This offence applies to all business end-users covering individuals and organizations, whether profit-making or not, except non-profit-making educational establishments.

Two separate sets of numeric limits within which the “copying and distribution offence” does not apply have been prescribed in the Copyright Ordinance, as follows:

- For newspapers, magazines and periodicals (excluding academic journals which contain peer-reviewed discipline-specific scholarly articles), the total number of "infringing pages" (i.e. those pages each containing in whole or in part any infringing copy) made for distribution or distributed within any 14-day period must not exceed 500.
- For books and academic journals, the total value of infringing copies made for distribution or distributed within any 180-day period must not exceed HK\$6,000.

Lobby activities

The Government issued a consultation document in December 2006 to seek public views on how best to strengthen copyright protection in the digital environment and released its preliminary proposals in April 2008. Having examined the public views on the preliminary proposals and taken reference of the experience and practices in overseas jurisdictions, the Government published its refined proposals in November 2009 as a briefing to the Legislative Council Panel on Commerce and Industry, as follows:

- Recognising copyright owners' right to communicate their works through any mode of electronic transmission, with criminal sanctions against infringement
- Introducing a statutory limitation of liability regime for online service providers in dealing with online piracy
- Introducing a copyright exception for temporary reproduction of copyright works by OSPs
- Prescribing additional factors for considering the award of additional damages
- Introducing a media shifting exception for sound recordings

The Heads of Universities Committee Task Force on Copyright in Education, the Concern Group of the Education Sector on Copyright Law and the Hong Kong Library Association were invited to provide a submission to the Legislative Council Panel on Commerce and Industry on strengthening copyright protection in the digital environment in January 2010. In March 2010, representatives of the Heads of Universities Committee Task Force on Copyright in Education and the Concern Group of the Education Sector on Copyright Law were invited to meet with the Government officials on the proposals.

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21 July 2010