

Thursday, 6 January 1994

Law Reform Commission publishes Report on Copyright

The Law Reform Commission today (Thursday) published its report on copyright after some six years work by the Commission and a sub-committee. The report covers a wide range of copyright issues in relation to broadcasting, literary works, videotapes and computer programs.

The report explains that Hong Kong's present law is based on the United Kingdom Copyright Act of 1956, which is now inadequate to cope with recent developments in technology, such as the introduction of cable television. International copyright standards have evolved and introduced new concepts such as "moral rights" (the right to be identified as author of a work and to object to its derogatory treatment).

The Commission argues that it is important that Hong Kong continues to align itself with international norms and has therefore in many areas chosen to follow the provisions of the United Kingdom Copyright, Designs and Patents Act 1988, which represents a comprehensive review of copyright law in line with international standards. There is, the Commission points out, much to be said for following English law in order to benefit from case law development there.

Among changes proposed is the imposition of liability not only on the occupier of premises where an infringing performance takes place, but also on the supplier of apparatus or the copy of the film or sound recording.

While much of the Commission's report is highly technical, there are a number of areas where the Commission's recommendations are likely to affect the man in the street:

- The Commission rejects the idea of a blank tape levy, a proposal favoured by copyright owners which would have imposed a levy on blank tapes in return for which purchasers would have been free to tape copyright material. The Commission does, however, propose that videotaping of a broadcast solely to enable it to be viewed at a more convenient time should be permitted.
- The Commission recommends that the law should allow copying of a 'reasonable proportion' of a printed work. At present, the photocopying of even a limited extract from a published work breaches the publisher's copyright.
- Copying or adaptation of a computer program as an essential step in the utilisation of the computer program should be permitted. The existing law suggests the copyright owner's

consent is required.

- The Commission recommend a scheme of statutory control for collecting societies, the bodies which collect and distribute royalties on behalf of copyright owners. At present, there is no such control.
- The Commission recommend (but with some reservations) the continuation of the existing right of the copyright owner to restrict parallel imports. (These are not "pirate copies", but copies lawfully manufactured elsewhere and imported to Hong Kong in breach of an exclusive distribution licence).
- The Commission recommend the creation of a new Copyright Tribunal, based on the existing Performing Right Tribunal but with extended jurisdiction. The new Tribunal would have powers to adjudicate as to whether or not a licensing scheme was reasonable. It would also be empowered to settle disputes over design right. The new Tribunal would be chaired by a legally qualified person, assisted by a number of lay assessors from the copyright field.

In announcing the release of the Commission's report, the Chairman of the Commission, Attorney General Mr Jeremy Mathews, paid tribute to the work of the Law Reform Commission's sub-committee, chaired by Mr Justice Nazareth.

"This is a complex area of the law and the Commission's report reflects the immense amount of hard work put into this subject by the members of the sub-committee," he said.

The report will be forwarded to the Trade and Industry Branch for consideration and necessary follow-up action.