Combating Corporate Copyright Piracy

在知情情況下於業務上
使用侵犯版權的物品即屬犯罪
It is an offence to knowingly use
infringing copies of
copyright work in trade or business

Keep your business practice legal. Don’t cut corners on copyright.
Let’s join hands in protecting intellectual property rights in Hong Kong.

Please report corporate copyright piracy activities to the Customs and Excise Department:

☎ 2545 6182
customsenquiry@customs.gov.hk

More frequently asked questions and answers relevant to the amended law are available at the following websites:

http://www.info.gov.hk/ipd
http://www.info.gov.hk/customs
http://www.info.gov.hk/cib
http://www.info.gov.hk

香港特別行政區政府知識產權署
Intellectual Property Department
The Government of the Hong Kong Special Administrative Region

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Design by Information Services Department
Hong Kong Special Administrative Region Government
Amendments to the Copyright Ordinance will come into effect on 1 April 2001. Under the amended law, anyone who knowingly possesses an infringing copy of a copyright work (for example, pirated computer software) in the course of business, will commit a criminal offence. This applies regardless of whether the business is involved in dealing in the infringing copies. Both management and staff could be liable to a maximum penalty of $50,000 per infringing copy and four years’ imprisonment.

The purpose of the amendments is to combat corporate copyright piracy activities more effectively. The use of copyright infringing products in business (e.g. pirated computer software and music or video compact discs) is a serious problem in Hong Kong. According to an unofficial estimate, about 50% of all computer software used in business is pirated. Such an excessive degree of violation of intellectual property rights has significantly affected the legitimate interests of copyright owners, discouraged innovation and investments, and tarnished the international image of Hong Kong.

To facilitate your understanding of the amended law, we have set out below some frequently asked questions and answers concerning the amendments.

Q1. Are there any concrete examples illustrating the position before and after the amended law takes effect?

A1. Suppose a company engages in the sale of clothing. The company needs computer software to support its business activities. The company then buys one set of computer software which is licensed for use in one computer only, and installs the same software in the computer of each of its 50 employees. In this situation, 49 infringing copies of the software have been installed in the company’s computers. In another situation, if the company installs that set of software in a network server for shared use by its 50 employees, the copy of the software in the network server is an infringing
copy since its installation in a network server for use by multiple computers
contravenes the terms of the licence.

Before the amended law takes effect, it is not absolutely clear whether
such acts amount to criminal acts, as the business of the company is selling
clothing rather than pirated computer software.

After the amended law takes effect, the company will commit a criminal
offence under such circumstances.

Another example is a barber shop playing music or videos for the enjoyment
of customers in the course of its business. If the music or video is played from
a pirated CD or VCD, and the shop owner knows that the CD or VCD is a pirated
copy, he may be criminally liable after the amended law takes effect.

Q2 Further to Q1, will employees be held liable under the amended law?

A2 Depending on the circumstances of the case, employees responsible for
the infringement may also incur liabilities. For example, the IT manager of the
company (referred to A1 above) who arranges for the installation of
the infringing copies of software in the computers of the company may
commit a criminal offence. He cannot be exempted from liability by the fact that he acts on the instruction of the
company's proprietor. In addition, employees who know that the software
installed in their computers is an infringing copy and who continue to use it
may be liable to criminal prosecution.

Q3 As an employee, would I be exempted from criminal liability for using
pirated software because I acted on my employer's instructions?

A3 Employees cannot be exempted from criminal liability by the fact that they were acting on the instructions of their employers. Employees therefore
should not use computers with pirated software installed in them. If employees know that pirated software has been installed in their office computers, they
should raise their concerns to their employers (showing them this pamphlet if necessary), pointing out that breaking the law would expose both the company and the employees to significant risks. Employees may also report the matter to the Customs and Excise Department.

Q4 Can you give practical guidelines on “dos” and “don’ts” in order to comply with the amended law?

A4

- In general, do not purchase or use pirated software. Pirated software is illegal and the law should be followed.

- Be aware of the risks associated with pirated software. Pirated software may contain malicious code that can damage your computer or steal your personal information.

- Consider using alternative software that is legal and comes with a warranty.

- If you have pirated software, make sure that it is authorized and that you are using it in accordance with the terms of the license.

- If you encounter any problems with pirated software, contact the manufacturer or your local authorities to report the issue.
The following guidelines may be useful:

- Generally do not buy from unlicensed hawkers or temporary premises. Distributors of copyright works do not normally authorize such places to sell their products.

- By all means seek the best price for the product; but if the price is no more than a fraction of the price for which an authorized version of the product is normally sold, this is an indication that the copy may be pirated. If in doubt, approach the copyright owner for additional information.

- Obtain licences from the copyright owners if you need to make copies of copyright works for your business.

- Do not use photocopies of books, magazines or newspapers for your business without a proper licence from the relevant copyright owners.

- If you are purchasing computer software for your business, get a set for each computer that will run the software, or purchase an appropriate network software licence.

- Carefully study the licensing conditions to ensure that software installed in your computers is properly licensed for use in your business.

- Conduct periodic software auditing to ensure that only properly licensed computer software has been installed in all computers in your office.

- Ensure that all employees in your office are fully aware of the company's policy and practice on the use of computer software and copying of copyright works.

- Do not play music or video for your business using pirated CDs, DVDs, VCDs or videotapes.

- If you are an employee, do not, in carrying out your business duties, use goods or products that you know or have reason to believe are infringing copies of copyright works, e.g. pirated computer software.

- Read the terms of the licensing agreements carefully to understand your rights and obligations.

The contents of this pamphlet including the questions and answers are provided for reference only and do not constitute legal advice. The Government of the Hong Kong Special Administrative Region does not accept any liability for any loss or damage caused to any person relying on any information or omission in this pamphlet.