

February 24, 2015

Hon. CHAN Kam-lam, SBS, JP
Bills Committee on Copyright (Amendment) Bill 2014
Legislative Council Complex
1 Legislative Council Road
Hong Kong



**The American Chamber
of Commerce in Hong Kong**
1904 Bank of America Tower
12 Harcourt Road, Hong Kong

Dear Chairman Chan,

The American Chamber of Commerce in Hong Kong (AmCham HK) wishes to express its appreciation that the HKSAR Government proceeded with the introduction of the Copyright (Amendment) Bill 2014 (“Amendment Bill”) into the Legislative Council on June 18, 2014.

The passing of the Amendment Bill is urgently required to ensure that the copyright regime in Hong Kong keeps pace with copyright legislation and policies in other jurisdictions. AmCham HK is both encouraged by and supportive of the introduction of the Amendment Bill.

However, we note that during recent meetings of the Bills Committee on the Amendment Bill (“Bills Committee”), a request was made to adopt a provision restricting contractual terms from overriding or limiting the fair dealing exception for parody, caricature and pastiche.

We are concerned with the inclusion of a “contract override” provision without proper consultation on this topic. This type of provision may affect freedom of contract and have a deep and extensive impact on business models and business operations. There is also a great deal of confusion on the rationale for restricting contract override provisions for some but not all of the exceptions.

Combatting digital online piracy is an ongoing process. The passage of the Amendment Bill is only an *initial step* to address this problem. We urge for the swift passage of the Amendment Bill while in parallel, a full consultation and review should be carried out to review the need (if any) and implications of the inclusion of a “contract override” provision into the legislation. We urge the Bills Committee not to delay the passage of the Amendment Bill any further. Any new issues, topics and/or suggestions raised should be separately dealt with thorough consultations at a later stage.

Please do not hesitate to contact Ms. Ming-Lai Cheung, Director, Government Relations & Public Affairs (mcheung@amcham.org.hk and Tel: 2530 6927) for follow-up.

Yours sincerely,

Peter J. Levesque
Chairman 2015

Richard R. Vuylsteke
President

Cc: Hon. Dennis Kwok