

To: Commerce and Industry Bureau

Opinions from the newsclipping industry towards the Amended Copyright Ordinance

1. Introduction

“Division of labour” is a normal phenomenon in a matured commercial world. In Hong Kong, different companies that specialized in their own functionality and technical skills are chained closely together, creating an economic body that runs smoothly and efficiently.

Newsclipping is a special industry, which services individual or corporate customers from different sectors. Customers, through our services, could grab their wanted information efficiently. This will save them a lot of time and manpower. Also, we contribute to publications’ sales volume as we have to buy lots of publications from time to time.

The implementation of the Amended Copyright Ordinance will have a profound impact on the newsclipping industry and our customers. We definitely respect to the Ordinance. However, there is still grey area with the related Ordinance at the moment. Of which, people may have misunderstood or abused using some of the terms. This affects not only the survival of the practitioners in the industry, but also hinders directly the reasonable flow of information.

We, HK Newsclipping Industry Working Committee, being the representative body of the newsclipping industry, would like to draw the Government’s attention towards the loopholes of the Amended Copyright Ordinance. Through our expression of opinions, we hope to firstly define clearly some of our working processes that have not infringed the copyrights. This could avoid arousing unnecessary disputes afterwards. Secondly, we would like to see that the conclusion and collection of licence fees are regulated under a reasonable and neutral stance.

2. The Role of Newsclipping Companies

The staffs of newsclipping companies can efficiently sort out news articles, or even some of the unpopular pictures and phrases from the press each day. The articles will then be cut out and arranged. The staff may also have to translate the news articles and prepare the report before they are sent to the clients. To let customers get their information as early as possible, most of the staffs have to

start working early from dawn.

Newsclipping companies will not consider selling the news articles as their own “products”. The clients will be told clearly the source (including information of the publication, the date and the page) of the materials they received. Our idea is **newsclipping companies’ receive a reasonable revenue for the “service”, not the “products” we provided.** Such service requires a number of quality personnel working together.

The value of news depends on the efficient delivery and spread. Newsclipping companies are simply the promoters, delivery persons, information services providers, and not the invaders.

3. Newsclipping companies’ stance towards the Amended Copyright Ordinance
We absolutely respect the spirit of copyrights. We will definitely be willing to pay a reasonable license fee whenever the copyright issue is involved in our works.

The newsclipping companies have established the Hong Kong Newsclipping Industry Working Committee early this year. We have contacted (in written and face to face) the government departments and the newspaper bureaus in Hong Kong, hoping to clarify the uncertainties in the Ordinance’s grey area, and to agree on the licence fees that are accepted by both parties.

Yet, our efforts have not been rewarded so far. During our discussion, some of the newspaper bureaus hope to raise the licence fees. The working processes, which have not infringed the copyrights, are equated with the act of pirated printing. Some of the newspaper bureaus have proposed some unrealistic charges, together with some difficult terms and conditions.

Thus, as said in the introduction, we hope the Government’s can clarify some of the terms in the grey area, guide and monitor the conclusion of licence fees. This will help reduce misunderstandings and abused use of the Amended Ordinance, which will in turn be a commercial invasion tool.

4. Brief Introduction to the Information Delivery and Photocopy Processes
Two distinct processes, which involve information delivery and photocopy, are often mentioned during the copyright discussion. We would thus discuss in

details the two processes in the followings. We would like to stress that these are two distinct processes, with different nature. We should not mix these two processes up.

- (1) Owing to the practical considerations as geographical positions, transport and the likes, we have to send the information to our clients via e-mail or fax in order to let them know the reportage promptly. We, however, will send them the original copies afterwards. When our clients receive the original copies, they will discard the e-mailed / faxed copies. Under this circumstance, the volume of publication we buy will not be reduced, and the photocopies we circulate will also not be increased. We believe that this process cannot be considered as an infringement of copyright.
 - (2) In certain circumstance (we, for instance, have only one original copies of the publication which is out of stock. More than one client require a particular news articles from that publication. Or, some clients request to have the copied articles for their easy handling), we have to photocopy the news cuttings for the customers. In such case, we surely are willing to pay a reasonable licence fee.
5. Detailed discussion on the working procession of “sending customers firstly the information for their preview, and providing them the original copies afterwards”

As mentioned, we have to deliver the clients the information in the possible fastest way. The original copies will then be sent to them for storage.

In other words, when 10 clients need the news articles on P.X1 of Newspaper X, we have to buy 10 Newspaper X after sending the clients the news articles through e-mail / fax. We will then cut out 10 P. X1 and have them sent to ten separate clients. Therefore, the sales volume of Newspaper X would not be reduced owing to the above working process.

The clients may still keep the faxed / e-mailed copies after receiving the original copies. The “copy”, however, is useless. The client obtains only one useful set of clippings at the same time.

Therefore, this work process can not be assumed as “buying one Newspaper X, which are being sent to ten clients with an extra nine photocopies”. We have

indeed bought 10 Newspaper X. The newspaper bureaus should have gained interests from the selling prices. To collect licence fee would thus be unreasonable. We hope that the Government could define clearly that such process is not an infringement of copyrights.

6. Detailed Discussion on the “Photocopy” Process

We admit that under certain circumstances as mentioned in Point 4, photocopying jobs are required. We are willing to pay a reasonable licence fee in this sense.

We, however, would like to emphasize that a neutral regulatory body and the licence fee cap are required. Foreign countries are getting matured in handling the copyright issues. We can take the fee mechanism of several international copyright bodies as references.(See Appendix I) If the licence fee level of some institutions differs from the international practices, not only will the rights of information users be exploited, the daily research and valuation work of the commercial and industrial sectors will also be affected.

7. Impact on the Users

Anybody can be users of the newsclipping services. Information comes from everywhere. The flow of information is of great importance to an international cosmopolitan as Hong Kong. Newsclipping companies will deliver users the information in the possible quickest way (such as by fax or by e-mail). Will such practice touch on the copyright issue? The flow of information will be hindered if information users fail to receive the information they required in an efficient way.

Newsclipping companies may have to deliver the original copies to clients by hand if they cannot legally send their clients the information through the electronic means. Time efficiency will greatly be reduced. The public, including people from all sectors, will then be the victims. In the recent information explosive era, information, with the emergence of Internet, comes from everywhere. People will know what happens whenever and wherever they are. The newsclipping industry has been discussing with the newspaper bureaus over the licence fee issues after the implementation of the Copyright Ordinance last year. The conservative attitude of some newspaper bureaus over the copyrights for electronic version (such as fax and e-mail deliveries), was not in line with society’s actual needs. The Government encourages the public to

make good use of the recent technology communications. The Government, we believe, should coordinate different ordinances and set guidelines in different areas.

8. Worries of Newspaper and Magazine Bureaus

- (1) Profit reduction: as mentioned, newsclipping companies will provide original copies, not photocopies, to their customers. They will send the copies to the clients as references by fax. The original copies will be sent afterwards. This will indeed boost newspaper / magazine bureaus' sales volume, and not reduce their profits.
- (2) Reduction of users: companies will not stop their newspaper / magazine subscription simply because of using the newsclipping services. They will buy extra copies, when they are informed by the newsclipping companies their coverage on the newspapers.

9. Conclusion

There are different opinions over the intellectual property rights. There are lots of possibilities in the range of “absolute protectionism” and “a thorough open policy”. The Government should balance the interests of copyright owners and users, and consider the profound impact on society before making decisions.

Thus, we hope that the Government can take these circumstances into considerations when handling the issues of newsclipping companies. To help all institutions enhance their efficiency, newsclipping companies require a reasonable and legal survival spaces.

Hong Kong Newsclipping Industry Working Committee

Photocopying charge of Overseas Clearance Centers

Overseas Clearance Center	Price for Press-cutting Agencies	Remark
Copyright Clearance Center (CCC)		Depending on the pages you photocopy, the way you use; no permission may occur
Copyright Licensing Agency (CLA)	Nil	Only give permissions to local companies
Newspaper Licensing Agency (NLA)	(UKD) 2.5p per copy, subject to a minimum of UKD 208.87 per month	Scanning charge UKD 417.75 monthly; for occasionally scanning pay 3.236p subject to a minimum monthly charge of UKD 313.31
Copyright Agency Limited (CAL)	5% of the total amount invoiced to your customers over the preceding calendar quarter	No limit on the amount of works represented by CAL in newspapers and magazines that can be copied under the license; Not cover electronic or digital means for the purpose of database storage or retrieval
Cancopy	CDD107 administrative fee (one-time) ; CDD 0.7 per copy	Not help receive permissions to overseas companies

