

**Intellectual Property Department  
Government of the Hong Kong SAR**



**Circular No. 1 of 2010**

**Code on Access to Information**

**Introduction**

The Code on Access to Information (the Code) has been applied to the Intellectual Property Department (IPD) since 26 February 1996. The Code is supplemented by Guidelines on Interpretation and Application (the Guidelines). Both the Code and the Guidelines have been published on the Internet as a component of the GovHK, and can be accessed at <http://www.access.gov.hk>. This Circular highlights the salient features and updated information relating to the Code. It supersedes Circular No. 2 of 1996 which was issued on 22 February 1996.

**The Aim and Main Elements of the Code**

2. The underlying principle of the Code is that information held by the Government will be made available, either routinely or on request, unless there are valid reasons related to public interests, commercial interests, third party or privacy to withhold the information. The aim of the Code is to provide information as promptly and as helpfully as possible. It should not be used, or perceived to be used, within or outside Government, as a means to obstruct the existing practice and avenues for providing information routinely or informally or as required under the Trade Marks, Patents, Registered Designs and Copyright Ordinances and their subsidiary legislation.

3. Part 1 of the Code describes the scope of information to be provided, and stipulates the procedures and timeframe by which such information is to be made available.

4. IPD will, routinely or on request, provide information under the Code, unless there are reasons for withholding it. These reasons are set out in Part 2 of the Code and will be referred to if a request is refused.

5. The Code provides for departmental review of the original decision relating to the request for information. It is also underpinned by a complaint channel through The Ombudsman. If a member of the public considers that the department has failed to comply with any provision of the Code properly, he or she may lodge a complaint with The Ombudsman.

### **Limits of the Code**

6. The Code does not apply to information held by courts, tribunals or inquiries which are defined very broadly to include all judicial or quasi-judicial proceedings. The existing rules governing disclosure of information in the context of judicial proceedings are not affected.

7. Equally the Code does not affect statutory prohibitions on or rights of access to information, or legal restrictions on access to information which may arise under common or international agreements.

### **Target Response Time**

8. All requests for information under the Code will be dealt with according to the timeframe as stipulated in the Code, i.e. information to be provided within 10 calendar days from date of receipt of the request. If this is not possible, an interim reply with explanation will be provided in which case the timeframe will be extended to 21 days. Responses may be deferred beyond 21 days only in exceptional circumstances, which will be explained to the applicant. Any extension necessary will be kept to a minimum and will not normally exceed a further 30 days.

### **Photocopying Charges**

9. Photocopying Charges (as shown in the table at Annex A) will be levied in relation to requests for information made under the Code involving reproduction of records. The applicant who has made the request for information will be informed of the amount of charges payable when he/she is notified of the release of information.

### **Third party information**

10. If the request involves third party information, IPD will invite the third party to consent to, or make representations against disclosure. The third party will be asked to respond within 30 days or such reasonable longer period as may be required.

### **Personal information**

11. If the request involves personal information, the release of information should not interfere with the privacy of an individual in accordance with the principles provided in paragraph 2.15 of the Code. Reference can be made to the relevant provisions under the Personal Data (Privacy) Ordinance (Cap.486).

### **Internal Review / Complaint to The Ombudsman**

12. IPD has instituted an internal system for review in respect of requests for review made by any person who considers that the department has failed to comply with the provisions of the Code. He/She may also make his/her complaint to The Ombudsman.

### **Requests Not Made Explicitly Under the Code**

13. Requests for information *not* made explicitly under the Code (non-Code requests) will be considered on the same basis as that applicable to requests under the Code, i.e. in deciding the release or otherwise of the requested information, consideration will be made in accordance with the provisions of the Code. In line with the spirit of the Code, the same target response times specified in the Code as set out in paragraph 8 above will be adhered to as far as possible.

### **Information Available to Members of the Public**

14. Access to the Code and the Guidelines has been made available at the homepage of the IPD ([http://www.ipd.gov.hk/eng/Code\\_on\\_access\\_to\\_information.htm](http://www.ipd.gov.hk/eng/Code_on_access_to_information.htm)). In addition, the following information related to the IPD is available to members of the public at the homepage:

- (a) Organisation charts, description of main services and functions, aims and programme areas;
- (b) Statements of performance pledges and performance statistics;
- (c) A list of records by category held by the IPD which the public may have access to;

- (d) A list of information (either published or otherwise) made available, either free of charge or at a cost; and
- (e) Administrative procedures under the Code, Application Form for Access to Information, charges for handling requests for information under the Code and contact information of the Access to Information Officer.

15. The information at the homepage of the IPD is updated at regular intervals.

### **Enquiries**

16. Enquiries on this Circular may be addressed to the Access to Information Officer of the IPD at tel. no. 2961 6886 or by email to: [enquiry@ipd.gov.hk](mailto:enquiry@ipd.gov.hk).

( Stephen Selby )  
Director of Intellectual Property

Stephen Selby (DIP)

File Reference: IPD/6-5/2

Date: 31 March 2010

**Intellectual Property Department  
Application for Access to Information**

Request for information held by the department may be made by letter or by the application form attached, and should be addressed to:

Access to Information Officer  
Intellectual Property Department  
24/F, Wu Chung House  
213 Queen's Road East  
Hong Kong

The following photocopying charges may be levied in relation to an application for access to information:

For office copy of an entry in the Register or of any document kept by the Trade Marks Registry, Patents Registry and Designs Registry:

<b>Trademarks</b>	<b>Charges</b>
An uncertified copy of an entry in the Register, an uncertified extract from the Register or an uncertified copy of an application for registration of a trademark as specified in rule 70(1) of the Trade Marks Rules (Cap. 559A)	HK\$6.00 for each page or portion of a page <i>{Fee No.22 in the Schedule to the Trade Marks Rules (Cap. 559A)}</i>
<b>Patents</b>	<b>Charges</b>
Uncertified copy or printout of an entry in the Register, of an extract from the Register or of a document as specified in section 51(2) of the Patents (General) Rules (Cap. 514C)	HK\$6.00 for each page or portion of a page <i>{Fee No.30 in Schedule 2 to the Patents (General) Rules (Cap. 514C)}</i>
<b>Registered Designs</b>	<b>Charges</b>
Uncertified copy of an entry in the Register or an uncertified extract from the Register under section 69 of the Registered Designs Ordinance (Cap. 522) and section 54 of the Registered Designs Rules (Cap. 522A)	HK\$6.00 per page <i>{Fee No.12 in the Schedule to the Registered Designs Rules (Cap. 522A)}</i>
Uncertified copy of a document kept by the Registry, not otherwise charged	HK\$6.00 per page <i>{Fee No.13 in the Schedule to the Registered Designs Rules (Cap. 522A)}</i>

Apart from the documents as specified in the above, a photocopying charge of HK\$1.00 for each page or portion of a page unless otherwise provided by enactment or approved by the Secretary for Financial Services and the Treasury may be levied in relation to an application for access to information.

The above charges are subject to revision from time to time and the latest charges are published at [http://www.ipd.gov.hk/eng/access\\_to\\_information/requests\\_for\\_information.htm](http://www.ipd.gov.hk/eng/access_to_information/requests_for_information.htm).

For enquiries, please call 2961 6886 or email to: [enquiry@ipd.gov.hk](mailto:enquiry@ipd.gov.hk).

## APPLICATION FOR ACCESS TO INFORMATION

(This form can be completed either in English or Chinese. Please read the notes below before completion)

### Applicant's Particulars

Name\*Mr/Ms \_\_\_\_\_ #HK I/D No. \_\_\_\_\_

Correspondence Address \_\_\_\_\_

\_\_\_\_\_

Tel. No. \_\_\_\_\_ Email Address \_\_\_\_\_

Fax No. \_\_\_\_\_

\* Please delete as appropriate

# Complete only if the applicant's personal data are required

### Information Requested

To: Access to Information Officer  
Intellectual Property Department

Details of information requested (Please be as specific as possible. It will help us understand clearly the information you are seeking. Use a separate sheet if necessary.)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

### Notes

1. A charge reflecting the cost of reproducing the records concerned may be levied. The department will advise you in advance of any such charge.
2. You may be asked to provide additional information to help us meet your request. The department may not be able to process your application if you do not provide sufficient information.
3. The information provided will be used for processing your application for access to information. It may be divulged to other departments/agencies for the same purpose.
4. For correction of or access to personal data contained in this application, please contact the Access to Information Officer of the department concerned.