

立法會
Legislative Council

LC Paper No. CB(2)1568/00-01

(These minutes have been
seen by the Administration)

Ref : CB2/BC/9/00

**Legislative Council
Bills Committee on Karaoke Establishments Bill**

**Minutes of the second meeting
held on Monday, 26 March 2001 at 5:00 pm
in Conference Room A of the Legislative Council Building**

Members Present : Hon James TO Kun-sun (Chairman)
Hon David CHU Yu-lin
Hon Howard YOUNG, JP
Hon LAU Kong-wah
Hon Tommy CHEUNG Yu-yan, JP
Hon Michael MAK Kwok-fung
Hon Audrey EU Yuet-mee, SC, JP

Member Absent : Hon Fred LI Wah-ming, JP
Hon Andrew WONG Wang-fat, JP
Hon LAU Ping-cheung

Public Officers Attending : Security Bureau

Mrs J CHOK
Deputy Secretary for Security

Mr S H AU
Principal Assistant Secretary for Security

Fire Services Department

Mr C C LEE
Chief Fire Officer/Fire Safety

Mr N H HO
Senior Divisional Officer/Commercial Buildings and
Premises

Buildings Department

Mr K M MO
Assistant Director/New Buildings 1

Mr C K LO
Chief Building Surveyor/Legal

Home Affairs Department

Mr H K YUEN
Chief Officer (Licensing Authority)

Food and Environmental Hygiene Department

Mr W H CHEUK
Assistant Director (Headquarters)

Mr K S NG
Senior Superintendent (Licensing)

Department of Justice

Mr J D SCOTT
Senior Assistant Law Draftsman

Ms F LAM
Government Counsel

By Invitation : The Karaoke Requirements Concern Group

Mr KWAN Lim-ho
Spokesman

Ms Lilian CHAN
Secretary

Mr LOK Kwok-on
Managing Director
California Red Ltd

Ms Queenie SO
Assistant Administration Manager
Big Echo

Mr Patrick MA
Managing Director
Neway Karaoke Box

Mr CHOW Men-yau
Ichiban

Mr Ivan LAW
Executive Director
Advance Group HK Ltd

Mr SO Tang-yui
Director (Administration)
Energy Karaoke

Mr Alan CHO
Assistant Supervisor
Energy Karaoke

Mr CHAN Yuk-ming, Raymond
Chartered Building Surveyor A.P

International Federation of the Phonographic Industry
(HK Group) Ltd.

Mr Ricky FUNG Tim-chee
Chief Executive Officer

Clerk in Attendance : Mrs Percy MA
Chief Assistant Secretary (2)3

Staff in Attendance : Ms Bernice WONG
Assistant Legal Adviser 1

Mr Paul WOO
Senior Assistant Secretary (2)3

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I. Meeting with deputations and the Administration
(The Bill; LC Paper Nos. 988/00-01(01); 1140/00-01 and 1153/00-01(01) &(02))

The Chairman welcomed the deputations to attend the meeting and invited them to give their views.

The Karaoke Requirements Concern Group (the Concern Group)
(LC Paper No. CB(2)988/00-01(01))

2. Mr KWAN Lim-ho summarized the views of the Concern Group as follows -

- (a) Harsh regulatory controls as proposed in the Bill would put the trade in jeopardy and keep away future investors because of the resultant higher costs of operation. This would in turn lead to closures of business and retrenchment of employees;
- (b) Many existing karaoke establishments had already undertaken adequate measures to improve fire and building safety of the premises. Consideration should be given to exempt existing establishments from the proposed licensing requirements;
- (c) The licensing requirements had not been explained in detail to members of the karaoke business. In fact, the proposed licensing scheme appeared to be different from the trade's expectation arising from the consultation exercise conducted by the Administration in 1997. During the previous consultation, the trade was given the understanding that the licensing system would involve only a relatively simple procedure under which the licence/permit for the operation of a karaoke establishment would take the form of an endorsement attached to a licence issued under existing legislation, namely a licence issued for the purpose of restaurant, club, hotel etc. Furthermore, the stance of the former Urban Council and

Regional Council was that existing karaoke establishments operating on premises with a valid licence should as far as possible be exempt from the proposed licensing requirements;

- (d) The licensing procedure should be clear, open and transparent, allowing the applicants and other parties to make representations; and
- (e) The transitional period proposed under the Bill should be further extended to allow operators sufficient time to undertake remedial works to meet the prescribed safety requirements.

International Federation of the Phonographic Industry (Hong Kong Group) Ltd (IFPI)

(LC Paper No. CB(2)1140/00-01(04))

3. Mr Ricky Fung Tim-chee said that the local recording industry had a close connection with the karaoke business. The majority of the song records produced locally were Chinese song records which were commonly used in karaoke activities. As karaoke had become a favorite leisure activity and entertainment for the people of Hong Kong and karaoke establishments were a useful avenue for the promotion of local artists and the recording industry, any adverse impact on the operation of karaoke establishments would also affect the recording industry in Hong Kong.

4. On the application of the Bill, Mr FUNG said that the concern of the recording industry was that the scope of the definitions of "karaoke" and "karaoke establishments" specified in clause 2 of the Bill was too wide and might cover recording studios, rehearsal halls, film dubbing rooms, production houses for movies and records etc. He opined that the Bill should contain express provisions to exempt those from the proposed licensing requirements.

5. The Chairman invited members' comments on the deputations' views on the Bill.

6. Mr LAU Kong-wah sought the Concern Group's views on whether exempting existing karaoke establishments from the requirements of the Bill would be contrary to public expectation and the spirit of the law. Ms Audrey EU pointed out that the Top One Karaoke fire tragedy was not an isolated case. There had been other major fire incidents, such as the Garley Building fire, which resulted in tremendous loss of human lives. She said that it was now commonly accepted that fire safety standards for buildings, including commercial premises, should be improved, and more stringent safety requirements had been introduced.

7. Mr LOK Kwok-on said that as opposed to the Garley Building, most karaoke establishments and the premises in which they were located were relatively new. Many karaoke establishments were operating in licensed premises which satisfied the safety requirements necessary for the issuing of a licence. He further informed members that according to the expert advice previously sought by the Concern Group, which had been explained to the Legislative Council Panel on Security at a meeting in January 1999 to discuss the proposed licensing system, the imposition of additional structural fire resistant construction in karaoke establishments would not add much to reducing the risks to life in case of fire. He added that following the Top One Karaoke incident, many karaoke operators had already undertaken measures to improve fire safety having regard to the professional advice.

8. Mr Tommy CHEUNG Yu-yan said that he recalled that the views of the then Urban Council and Regional Council were that existing karaoke establishments whose conditions did not pose an immediate fire risk should as far as possible be allowed to continue operation without being required to comply fully with the proposed licensing requirements.

9. Deputy Secretary for Security (DS/S) responded that one should not view lightly the lessons to be learnt from the karaoke fire incident in 1997. She said that following that tragic fire in 1997, the call from the community was that new legislation should be introduced urgently to tighten the regulation of the operation of karaoke establishments in order to improve fire and public safety of karaoke establishments. The proposal to implement a new licensing regime for the trade was widely supported, as evidenced in many media commentaries which attributed the cause of the Top One Karaoke fire to substandard fire precautionary measures which were a common problem for many karaoke establishments. She quoted the reported remarks made by the then Coroner in the Coroner's hearing of the fire accident that the incident had exposed serious lapses in the law, and that the regulatory system should be reviewed so as to rectify the deficiencies as a matter of urgency.

10. In further addressing the concerns raised by the Concern Group, DS/S said that the proposed regulations which set out the safety requirements were not materially different from those publicized in the Consultation Paper of February 1998, only that the Bill itself did not include the detailed requirements themselves. She drew members' attention to the copy of draft Regulations attached at Annex C of the Administration's paper (LC Paper No. CB(2)1153/00-01(02)). She explained that the Administration felt that it was not appropriate for the draft Regulations to be released to the public until members of the Bills Committee had sight of them.

11. On the previous consultation in 1997, Assistant Director (Headquarters)(AD/HQ) said that the documents he came across so far did not record that the two former municipal councils supported the exemption of

existing karaoke establishments in licensed premises from the new licensing system though expressing the view that a suitable transitional period should be provided to enable the necessary remedial works to be undertaken in existing establishments. DS/S stressed that the main objective of the Bill was to introduce a licensing system for the effective regulation of karaoke establishments in view of the special lay-out and feature of karaoke operations. The stance of the Administration was that it was not appropriate to exempt existing karaoke establishments from the proposed licensing controls.

12. The Chairman expressed the view that apart from improving fire safety protection for karaoke establishments, the Bill also aimed at addressing the problem of crime-related activities arising from or associated with problematic karaoke establishments, many of them were operating without a proper licence.

13. Mr LAU Kong-wah opined that public expectation would be such that any regulatory measures, if considered to be necessary in the public interest, should apply indiscriminately. It was for the Bills Committee to identify if there were any problems with the Bill, and if so, to ensure that they were suitably dealt with before the Bill was enacted.

14. Some members of the Concern Group expressed the view that it would lead to duplication of efforts on the part of the licensing authorities to require karaoke establishments operating in premises in respect of which a valid liquor licence had been issued (such as a licensed restaurant) to apply for a separate permit under the Bill. They pointed out that under the existing licensing system, a liquor licence was granted under very stringent conditions to a person who was considered by the licensing authority to be a fit and proper person to operate the licensed premises in question.

15. AD/HQ advised that under the proposed licensing requirements in the Bill, a licence/permit would be issued to an individual as the applicant, who might be applying on behalf of a body corporate or a partnership. A liquor licence and a licence/permit issued in respect of a karaoke establishment might be held by two different persons, hence, the two separate procedures to deal with the different applications.

16. Members sought the Concern Group's views on the transitional provisions in the Bill. Mr KWAN Lim-ho replied that trade operators generally considered that, in the event that the proposed safety requirements were passed, the two periods stipulated in clause 3(3)(b) should be extended from 12 to 18 months.

17. Mr Patrick MA pointed out that as set out in the Administration's paper (Annex B2 of LC Paper No. CB(2)1153/00-01(02)), one of the building safety licensing requirements was that the premises should be able to withstand a live load of 5 Kpa. He opined that it was unlikely that existing karaoke

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establishments operating in premises which failed to meet this structural standard could do anything to comply with the requirement, even with an extension of the transitional period. This in consequence would force the establishments to close or be relocated to another place in order to continue business. He added that many restaurants were operating in premises which fulfilled a structural standard of only 3 Kpa. To his knowledge, some restaurants operating with a full restaurant licence had been refused application for change to a light restaurant licence, because the live loading requirement of 5 Kpa applied to the new application and this could not be met.

18. On the live loading requirement, the Administration explained that the policy intention was that the requirement of 5 Kpa would not be applied to existing licensed restaurants, clubs etc, and application for a permit under the Bill for a karaoke establishment to operate in such premises would not be refused on the ground of non-compliance with the 5 Kpa standard alone. This policy would also apply to establishments on transfer of ownership or transfer of permit. DS/S added that clause 20(3) of the Bill provided a flexibility in that the licensing authority might, in appropriate circumstances and by notice in writing, waive wholly, partly or conditionally the requirements of any regulation in respect of a karaoke establishment and might amend or withdraw any such notice.

19. The Chairman opined that the Administration should make known clearly to the public the policy intent.

Adm 20. In view of the various points raised by the Concern Group, the Chairman requested the Administration to revert to the Bills Committee on the following -

- (a) to provide the relevant records of meetings held between the Administration, the then Urban Council and Regional Council and the Concern Group to discuss the proposed licensing requirements;
- (b) to explain the reasons for the requirement that the premises for karaoke establishments had to withstand a live load of 5 Kpa, the circumstances under which the requirement might be waived under clause 20(3) of the Bill, and whether existing karaoke establishments operating in residential, commercial or industrial premises with a live load requirement of less than 5 Kpa would be granted a licence/permit under the new licensing system; and
- (c) to respond to the proposal that the "period of 12 months" which appeared twice in clause 3(3)(b) be changed to "period of 18 months".

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Adm

21. Mr Ivan LAW said that to facilitate karaoke operators to establish a business which complied with the licensing requirements, the Administration might consider designating "karaoke establishment" as a specific type of property use for town planning purpose. The Chairman requested the Administration to respond to the suggestion. He also asked the Administration to advise whether in considering an application relating to the operation of a karaoke establishment, reference would be made to the use of the relevant zones and districts specified in the Outline Zoning Plans.

22. The Chairman also sought the Administration's response to the concern raised by Mr Ricky FUNG Tim-chee in paragraph 4 above.

23. In reply, DS/S said that by virtue of the definition of "karaoke establishment" in clause 2 of the Bill, which referred karaoke establishments as [...any place opened, kept or used for the purpose of karaoke by way of trade or business..], it did not appear that recording studios and production houses for movies and records etc would fall under the scope of the definition. Furthermore, the physical layout and the activities conducted in a recording studio and the like were markedly different from that of a "bona fide" karaoke establishment. She said that it was also not the policy intent to include such places as karaoke establishments. Senior Assistant Law Draftsman added that an additional safeguard was provided in clause 3(1)(e), which stated that the licensing authority could by order in writing exempt an establishment from the application of the Ordinance.

24. Mr Ricky FUNG Tim-chee said that according to the legal advice sought by IFPI, the premises and places he had referred to (recording studios etc) which were rentable for public use and had the characteristics of a karaoke establishment (such as music or sound or exhibited visual image etc), could be caught by the definition of "karaoke establishment". Senior Assistant Law Draftsman stated that, in his view, the premises concerned were not karaoke establishments and the activities described were not karaoke activities and, in particular, were not karaoke activities that were conducted by way of trade or business. They were therefore outside the scope of the Bill.

Adm/ALA

25. The Chairman asked IFPI to make available the legal advice obtained for reference of the Panel. He also requested the Administration and Assistant Legal Adviser to provide their comments.

Administration's response to the issues raised at the meeting on 1 March 2001
(LC Paper No. CB(2)1153/00-01(02))

26. At the invitation of the Chairman, DS/S explained the Administration's response as set out in the paper.

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27. In view of the shortage of time left for the meeting, members agreed that the paper should be further discussed at the next meeting.

Report on Regulatory Impact Assessment on the Licensing Control of Karaoke Establishments

Adm 28. In response to Mr Tommy CHEUNG Yu-yan, the Administration agreed to provide the above Report for the Bills Committee's reference.

Visit to karaoke establishments

29. The Chairman informed members that in response to the invitation of the Concern Group, arrangements had been made by Mr David CHU for individual members of the Bills Committee to visit a few karaoke establishments in the afternoon of 2 April 2001.

30. The Chairman said that in his opinion, it might be worthwhile for members of the Bills Committee to visit some of those karaoke establishments which were the prime targets of the Bill, namely those which were substandard in terms of compliance with safety and other regulatory requirements, so that members could have a better understanding of the problems involved. He requested the Administration to arrange a visit for members to take part on a separate occasion.

Adm

II. Date of next meeting

31. The next meeting was scheduled for 2 April 2001 at 8:30 am.

32. The meeting ended at 7:20 pm.

Legislative Council Secretariat

17 May 2001