

**立法會**  
**Legislative Council**

LC Paper No. CB(1)2315/02-03  
(These minutes have been seen  
by the Administration)

Ref: CB1/BC/4/01/2

**Bills Committee on Copyright (Amendment) Bill 2001  
and Copyright (Amendment) Bill 2003**

**Minutes of meeting  
held on Friday, 6 June 2003 at 10:45 am  
in Conference Room B of the Legislative Council Building**

- Members present** : Hon SIN Chung-kai (Chairman)  
Hon Kenneth TING Woo-shou, JP  
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP  
Hon HUI Cheung-ching, JP  
Hon CHAN Kam-lam, JP  
Hon Timothy FOK Tsun-ting, SBS, JP  
Hon MA Fung-kwok, JP
- Members absent** : Hon Cyd HO Sau-lan  
Hon Margaret NG  
Dr Hon YEUNG Sum  
Hon YEUNG Yiu-chung, BBS  
Dr Hon LAW Chi-kwong, JP  
Hon Audrey EU Yuet-mee, SC, JP
- Public officers attending** : Miss Mary CHOW  
Deputy Secretary for Commerce, Industry and  
Technology (Commerce and Industry)
- Mr Donald CHEN  
Principal Assistant Secretary for Commerce,  
Industry and Technology (Commerce and Industry)
- Mr Jeffrey CHAN  
Assistant Secretary for Commerce, Industry and  
Technology (Commerce and Industry)

Ms Pancy FUNG  
Assistant Director of Intellectual Property

Mr Frederick WONG  
Solicitor, Intellectual Property Department

Mr Jonothan ABBOTT  
Senior Assistant Law Draftsman, Department of  
Justice

Mr Sunny CHAN  
Senior Government Counsel, Department of Justice

Mr Alex LIU  
Head, Intellectual Property Investigation Bureau,  
Customs and Excise Department

**Clerk in attendance** : Ms Connie SZETO  
Chief Assistant Secretary (1)4

**Staff in attendance** : Miss Anita HO  
Assistant Legal Adviser 2

Mr S C TSANG  
Senior Assistant Secretary (1)7

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Action

**I Confirmation of minutes**

(LC Paper No. CB(1) 1720/02-03 -- Minutes of meeting on  
7 April 2003)

The minutes of meeting held on 7 April 2003 were confirmed.

**II Meeting with the Administration**

(LC Paper No. CB(1) 1866/02-03(01) -- Information paper provided  
by the Administration on the  
revised proposal on the  
scope of liberalization of  
parallel importation of  
computer software

LC Paper No. CB(1) 1866/02-03(02) -- Information paper provided by the Administration on the revised draft Committee Stage Amendments to the Copyright (Amendment) Bill 2001

LC Paper No. CB(1) 524/02-03(01) -- Outstanding issues relating to the Copyright (Amendment) Bill 2001

LC Paper No. CB(1) 2237/01-02(02) -- Marked-up copy of the Copyright (Amendment) Bill 2001)

2. The Bills Committee deliberated (Index of proceedings attached at the **Annex**).

Admin

3. The Administration undertook to take follow-up actions as below:

- (a) To provide further information on the case *Australian Video Retailers Association Ltd v Warner Home Video Pty Ltd [2001] FCA 1719* concerning the "essential object" test and judgement given by the Federal Court of Australia; and
- (b) To follow up with the Assistant Legal Adviser of the Legislative Council on outstanding drafting issues of the 2001 Bill.

### **III Any other business**

4. Members agreed to hold the next meeting on **Thursday, 12 June 2003 at 10:45 am**. Members also noted that the Administration intended to resume the Second Reading debate of the 2001 Bill at the Legislative Council meeting scheduled for 9 July 2003.

*(Post-meeting note : The Administration had subsequently advised that it intended to advance the resumption date of the 2001 Bill to the Council meeting on 2 July 2003.)*

**Proceedings of the meeting of the  
Bills Committee on Copyright (Amendment) Bill 2001  
and Copyright (Amendment) Bill 2003  
on Friday, 6 June 2003 at 10:45 am  
in Conference Room B of the Legislative Council Building**

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
000000 - 000018	Chairman	Confirmation of minutes	
000018 - 000642	Administration	Briefing by the Administration on the new formulation to define the scope of liberalization for parallel importation of computer software products (LC Paper No. CB(1) 1866/02-03(01)), particularly the new test based on the purpose of acquisition	
000642 - 001235	Mr MA Fung-kwok Administration	Clarification that the new purpose of acquisition test would apply if a computer program embodied with a movie of duration exceeding 15 minutes	
001235 - 001838	Mrs Selina CHOW Administration	The feasibility of adopting the "essential object" test proposed by the publishing, music and film industries for defining the scope of liberalization  Given the ambiguity of the concept "essential object" and the policy intent to set out specific exceptions on liberalization for parallel importation, the Administration did not agree to the industries' proposal.	
001838 - 002034	Mr HUI Cheung-ching	Concern on the fundamental change in the approach for defining the scope of liberalization	
002034 - 002544	Mr MA Fung-kwok Mrs Selina CHOW Administration	Suggestion for the Administration to map out a comprehensive policy to ensure copyright protection. The policy on liberalization of parallel importation should be in line with the development of creative industries and strike a balance between interests of the copyright owners and consumers	

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
002544 - 003150	Mrs Selina CHOW Chairman Administration	Concern that the new purpose of acquisition test might create uncertainty in the scope of liberalization for parallel importation  Suggestion for the Administration to reconsider the "essential object" test proposed by the industries	
003150 - 003238	Chairman Mr MA Fung-kwok	Concern that the new formulation on the scope of liberalization might have negative impact on the development of local computer games industry	
003238 - 005106	ALA2	Concern that the new purpose of acquisition test might create enforcement problems as the types of articles to be allowed for parallel importation were not listed out	
005106 - 005950	Mrs Selina CHOW Administration	Concern on the confusion arising from the exclusion of e-books from the scope of liberalization for parallel importation  The Administration assured members that the 2001 Bill had provided a definition on e-books.	
005950 - 010010	Mrs Selina CHOW Chairman	Request for the Administration to provide further information on the Australian court case concerning the "essential object" test and the ruling given by the Federal Court of Australia  Request for the Assistant Legal Adviser of the Legislative Council to provide a paper on the "essential object" test	Admin  LSD
010010 - 010658	Chairman Administration	Clause-by-clause examination of the 2001 Bill (LC Paper No. CB(1) 1866/02-03(02))	
010658 - 010820	Mr MA Fung-kwok Administration	Clause 3 - clarification on the definition of "infringing copy" under the section 35A(2)	

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
010820 - 012055	ALA2 Administration	Clause 3 - suggestion to review the drafting of the Chinese version of section 35A(2)	Admin
012055 - 012831	ALA2 Administration	Clause 4 - suggestion to review the drafting of section 118A(b) to ensure consistency in English and Chinese versions	Admin
012831 - 013015	Mr CHAN Kam-lam Administration	Schedule 6 - clarification on the drafting of Chinese version of section 3(1)	Admin
013015 - 013900	ALA2 Administration	Schedule 6 - request to review the need and drafting of sections 2(3), 3(3) and 4(3)	Admin
013900 - 013922	Chairman	Legislative Timetable; Date of next meeting	

**Note: The audio records of the above proceedings are kept at the Legislative Council Library.**

Council Business Division 1  
Legislative Council Secretariat  
31 July 2003