

立法會
Legislative Council

LC Paper No. CB(1) 120/02-03
(These minutes have been seen
by the Administration)

Ref: CB1/BC/4/01/2

Bills Committee on Copyright (Amendment) Bill 2001

Minutes of meeting
held on Monday, 16 September 2002 at 8:30 am
in the Chamber of the Legislative Council Building

- Members present** : Hon SIN Chung-kai (Chairman)
Hon Kenneth TING Woo-shou, JP
Hon Cyd HO Sau-lan
Hon Margaret NG
Hon HUI Cheung-ching, JP
Hon CHAN Kam-lam, JP
Dr Hon YEUNG Sum
Hon YEUNG Yiu-chung, BBS
Hon Audrey EU Yuet-mee, SC, JP
Hon MA Fung-kwok, JP
- Members absent** : Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
- Public officers attending** : Mr Kenneth MAK
Deputy Secretary for Commerce, Industry and
Technology (Commerce and Industry)
- Miss Laura TSOI
Principal Assistant Secretary for Commerce, Industry
and Technology (Commerce and Industry) (Atg.)
- Ms Pancy FUNG
Assistant Director of Intellectual Property
- Ms Maria NG
Senior Solicitor, Intellectual Property Department

Mr Jonothan ABBOTT
Senior Assistant Law Draftsman

Mr Sunny CHAN
Senior Government Counsel

Mr Y K TAM
Senior Superintendent, Intellectual Property
Investigation Bureau, Customs and Excise Department

**Attendance by
invitation**

: Miss LING Wai-king
Librarian, The Hong Kong Academy for Performing
Arts

Mr Ricky FUNG
Chief Executive Officer, International Federation of the
Phonographic Industry (Hong Kong Group) Limited

Mr Jeff BULLWINKEL
Vice President (Hong Kong), Business Software
Alliance

Mr Fred YEUNG
Member of the Executive Council, Hong Kong Public
Relations Professionals' Association Limited

Mr Barry WILL
Immediate Past President, Hong Kong Institute of
Architects

Mr Charles MOK
President, Hong Kong Information Technology
Federation

Mr SHI Kai-biu
Chairman, Hong Kong Small and Medium Enterprises
Association

Mr Tony SHU
Executive Secretary, Movie Producers & Distributors
Association of Hong Kong Limited

Mr Woody TSUNG
Chief Executive, Hong Kong Kowloon & New
Territories Motion Picture Industry Association Limited

Mr CHONG Chan-yau
Executive Director, Oxfam Hong Kong

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

Action

I Meeting with deputations

- LC Paper No. CB(1) 2480/01-02(01) -- Submission from The Hong Kong Academy for Performing Arts
- LC Paper No. CB(1) 2480/01-02(02) -- Submission from International Federation of the Phonographic Industry (Hong Kong Group) Limited
- LC Paper No. CB(1) 2480/01-02(03) -- Submission from Business Software Alliance
- LC Paper No. CB(1) 2504/01-02(01) -- Submission from Hong Kong Information Technology Federation
- LC Paper No. CB(1) 2516/01-02(01) -- Submission from Hong Kong Small and Medium Enterprises Association
- LC Paper No. CB(1) 2480/01-02(04) -- Submission from Movie Producers And Distributors Association of Hong Kong Limited
- LC Paper No. CB(1) 2504/01-02(02) -- Submission from The Law Society of Hong Kong
- LC Paper No. CB(1) 2480/01-02(05) -- Submission from Hong Kong Kowloon & New Territories Motion Picture Industry Association Limited
- LC Paper No. CB(1) 2480/01-02(06) -- Submission from the Federation of Hong Kong Industries

- LC Paper No. CB(1) 2480/01-02(07) -- Submission from The Open University of Hong Kong
- LC Paper No. CB(1) 2480/01-02(08) -- Submission from the Institute of Electrical and Electronics Engineers Hong Kong Section Computer Chapter
- LC Paper No. CB(1) 2480/01-02(09) -- Submission from the Equal Opportunities Commission
- LC Paper No. CB(1) 2480/01-02(10) -- Submission from the Hong Kong Society of Accountants
- LC Paper No. CB(1) 2480/01-02(11) -- Submission from a Sai Kung District Council member
- LC Paper No. CB(1) 2480/01-02(12) -- Submission from the Motion Picture Association
- LC Paper No. CB(1) 2480/01-02(13) -- Submission from the Consumer Council
- LC Paper No. CB(1) 2480/01-02(14) -- Submission from the Vocational Training Council
- LC Paper No. CB(1) 2480/01-02(15) -- Submission from The Institution of Electrical Engineers Hong Kong
- LC Paper No. CB(1) 2480/01-02(16) -- Submission from The Chinese Manufacturers' Association of Hong Kong
- LC Paper No. CB(1) 2480/01-02(17) -- Submission from the Hong Kong Blind Union
- LC Paper No. CB(1) 2480/01-02(18) -- Submission from the Hong Kong Bar Association
- LC Paper No. CB(1) 2480/01-02(19) -- Submission from The Chinese General Chamber of Commerce
- LC Paper No. CB(1) 2480/01-02(20) -- Submission from the Era Home Entertainment Limited
- LC Paper No. CB(1) 2480/01-02(21) -- Submission from a Eastern District Council member
- LC Paper No. CB(1) 2480/01-02(22) -- Submission from the Asian Patent Attorneys Association Hong Kong Group
- LC Paper No. CB(1) 2504/01-02(03) -- Submission from the Hong Kong Retail Management Association

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

2. Pursuant to discussion at the meeting, the Bills Committee requested the Business Software Alliance, Hong Kong Small and Medium Enterprises Association (HKSMEA) and Consumer Council to provide information on the impact of the

implementation of the Intellectual Property (Miscellaneous Amendments) Ordinance since April 2001 on the prices of computer software and the rationale behind. Additionally, the Bills Committee also requested the Hong Kong Information Technology Federation (HKITF) to consult its members who were in the computer games industry for views on the Bill and to convey their concerns, if any, to the Bills Committee.

II Meeting with the Administration

- LC Paper No. CB(1) 2480/01-02(23) -- Correspondence between the Legal Service Division and the Administration
- LC Paper No. CB(1) 2480/01-02(24) -- Administration's response to written submissions from organizations
- LC Paper No. CB(1) 2533/01-02 -- Administration's response to written submissions from organizations
- LC Paper No. CB(1) 2516/01-02(02) -- A summary of views from the written submissions received

- Admin 3. The Administration undertook to take follow-up actions as follows:
- (a) to provide an assessment on the impact of the Bill on the computer games industry; and
 - (b) to provide outstanding responses to written submissions from organizations including HKITF, Hong Kong Retail Management Association, The Law Society of Hong Kong and HKSMEA.

III Any other business

4. Members agreed to hold the next meeting on **Tuesday, 8 October 2002 at 10:45 am.**
5. There being no other business, the meeting ended at 10:30 am.

**Proceedings of the meeting of the
Bills Committee on Copyright (Amendment) Bill 2001
on Monday, 16 September 2002 at 8:30 am
in the Chamber of the Legislative Council Building**

Time	Speaker	Subject(s)	Action required
000000 - 000107	Chairman	Opening remarks Meeting with deputations	
000107 - 000257	The Hong Kong Academy for Performing Arts (HKAPA)	Presentation of views	
000257 - 000905	International Federation of the Phonographic Industry (Hong Kong Group) Limited (IFPI)	Presentation of views	
000905 - 001416	Business Software Alliance (BSA)	Presentation of views	
001416 - 001505	Hong Kong Public Relations Professionals' Association Limited (HKPRPA)	Presentation of views	
001505 - 001903	Hong Kong Institute of Architects (HKIA)	Presentation of views The copyright of buildings should rest with the architects concerned. The organization would consider setting up a fund by collecting royalties from commercial users of building copyright for improving the environment of Hong Kong.	
001903 - 002420	Hong Kong Information Technology Federation (HKITF)	Presentation of views	
002420 - 003100	Hong Kong Small and Medium Enterprises Association (HKSMEA)	Presentation of views	
003100 - 003440	Movie Producers and Distributors Association of Hong Kong Limited (MPDA)	Presentation of views	
003440 - 004015	Hong Kong, Kowloon & New Territories Motion Picture Industry Association Limited (MPIA)	Presentation of views	

Time	Speaker	Subject(s)	Action required
004015 - 004034	Chairman	Invitation for questions from Members	
004034 - 004405	Mr HUI Cheung-ching Chairman BSA	Enquiry on the investment made by local distributors in marketing computer software and providing after sale support service	
004405 - 005122	Miss Margaret NG BSA HKSMEA HKITF Chairman	Concern on the monopoly of supply of computer software by local distributors Request for information on the impact of the implementation of the Intellectual Property (Miscellaneous Amendments) Ordinance 2000 since April 2001 on the prices of computer software and the reasons behind	BSA HKSMEA Consumer Council
005122 - 005444	Mr CHAN Kam-lam BSA Chairman	Enquiry on the assistance from BSA in the event that individual users found that its member companies charged unreasonable prices for computer software products	
005444 - 005620	Oxfam Hong Kong	Presentation of views	
005620 - 005830	Chairman HKITF	Request for assessment on the impact of the Bill on the computer games industry	HKITF Admin
005830 - 011708	Administration	Responses to submissions and views from deputations (LC Papers Nos. CB(1) 2480/01-02(24) & 2533/01-02)	
011708 - 012400	Mr MA Fung-kwok Chairman Administration	Concern that the "20 minutes" rule under section 35A(3) of the Bill might be abused by unscrupulous merchants to break down a movie into several parts to circumvent the exclusion provision for parallel importation It was also difficult to determine whether an article should be excluded from restrictions on parallel importation based on its economic value or the combined economic value of all embodied works, e.g. musical sound or	

Time	Speaker	Subject(s)	Action required
		<p>musical visual recordings, etc.</p> <p>Concern on difficulties encountered by the enforcement authorities in distinguishing pirated copyright works from genuine or parallel imported works and enquiry on the number of successful prosecution for copyright infringement</p> <p>The Customs and Excise Department seldom encountered cases where pirated products were sold as parallel imports in Hong Kong. The Department would need to rely on information supplied by copyright owners to distinguish parallel imports of a particular copyright work from pirated products.</p>	
012400 - 013300	Ms Audrey EU Administration	<p>Request for Administration's responses to outstanding submissions from organizations</p> <p>Clarification on the term "lawfully made" in section 35A(1) of the Bill</p> <p>Meaning of the terms "accessory works" in section 35(8) of the Copyright Ordinance and "associated work" used in the Bill</p>	Admin
013300 - 014230	Miss Margaret NG Chairman Administration	Clarification on the civil liability related to parallel importation of and subsequent dealings in computer software under the Copyright Ordinance	
014230 - 015740	HKSMEA MPDA MPIA IFPI HKAPA	Supplementary comments from organizations	
015740 - 015845	Chairman	Date of next meeting	

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

Legislative Council Secretariat

23 October 2002