

立法會
Legislative Council

LC Paper No. CB(1)775/02-03
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seen by the Administration)

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Panel on Information Technology and Broadcasting

Minutes of special meeting
held on Tuesday, 3 December 2002, at 4:30 pm
in the Chamber of the Legislative Council Building

- Members present** : Hon SIN Chung-kai (Chairman)
Hon Howard YOUNG, JP (Deputy Chairman)
Dr Hon David CHU Yu-lin, JP
Hon Eric LI Ka-cheung, JP
Hon CHAN Kwok-keung
Hon YEUNG Yiu-chung, BBS
Hon Emily LAU Wai-hing, JP
Hon Albert CHAN Wai-yip
Hon MA Fung-kwok, JP
- Members absent** : Dr Hon Philip WONG Yu-hong
Dr Hon LAW Chi-kwong, JP
Hon Timothy FOK Tsun-ting, SBS, JP
- Non-Panel members attending** : Hon Cyd HO Sau-lan
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
- Public officers attending** : Mr Alan SIU
Deputy Secretary for Commerce, Industry and
Technology
(Information Technology and Broadcasting)
- Miss Helen TANG
Principal Assistant Secretary for Commerce,
Industry and Technology
(Information Technology and Broadcasting)

Mr Freeman HUEN
Assistant Secretary for Commerce, Industry and
Technology
(Information Technology and Broadcasting)

Mr Eddy CHAN, JP
Commissioner for Television and Entertainment
Licensing

Mr PO Pui-leong
Assistant Commissioner for Television and
Entertainment Licensing (Entertainment)

Mr Alfred FOK
Chief Executive Officer (Film Services)

By Invitation : Cine Finance

Ms LAW Sau-wai, Ivy
Vice President

Federation of Hong Kong Film Workers

Mr NG See-yuen
Chairman

Mr John SHAM
Standing Advisor

Ms Nansun SHI
Advisor

Mr Bill KONG
Advisor

Hong Kong Film Directors' Guild

Mr CHEUNG Tung-joe
Permanent Honorary President

HK, Kowloon & New Territories Motion Picture
Industry Association Ltd

Mr Patrick TONG
Vice Chairman

Mr Woody TSUNG
Chief Executive

Hong Kong Performing Artistes Guild

Miss MUI Yim-fong, Anita
President

Miss Cecilia LEE
Committee

Movie Producers & Distributors Association of
Hong Kong Ltd

Mr Raymond WONG
Chairman

Mr CHEUNG Kai-ping
Committee

Society of Cinematographers (Hong Kong)

Mr WONG Ngok-tai, Arthur
Chairman

Mr TAM Chi-wai, Adam
Vice Chairman

Clerk in attendance : Miss Polly YEUNG
Chief Assistant Secretary (1)3

Staff in attendance : Ms Debbie YAU
Senior Assistant Secretary (1)1

Ms Sharon CHAN
Legislative Assistant 6

I. "Consultation Paper on the Establishment of the Film Guarantee Fund" and other issues of concern to the development of the film industry

Meeting with the Administration

LC Paper No. CB(1)390/02-03(02) Information paper on "Proposal on the Establishment of the Film Guarantee Fund" with "Consultation paper on the Establishment of the Film Guarantee Fund" attached

At the invitation of the Chairman, the Deputy Secretary for Commerce, Industry and Technology (Information Technology and Broadcasting)(DSCITB(ITB)) informed members that the Television and Entertainment Licensing Authority (TELA) had published a consultation paper on 17 October 2002 to solicit the views of the film industry, the banking sector and the public on the proposed establishment of the Film Guarantee Fund (FGF). TELA had also organized briefing sessions for the film industry and the banking sector on 23 and 24 October 2002 respectively. A majority of the 48 submissions received during consultation were supportive of the scheme while some had suggested certain revision to the proposal. After considering these views and those of the Film Services Advisory Committee (FSAC), some specific amendments had been proposed to the scheme. One major change was to relax the proposed budget ceiling of \$7.5 million for each film while maintaining the maximum amount of loan guarantee for each film at \$2.625 million.

2. With the aid of power-point presentation, the Principal Assistant Secretary for Commerce, Industry and Technology (Information Technology and Broadcasting) (PASCIT(ITB)) briefed members on the objectives of the FGF and the principles underlying film financing, the result of public consultation and the amendments to the proposal. Members noted that the Administration would submit the relevant funding proposal to the Finance Committee for consideration in January 2003.

(Post-meeting note: The set of power-point presentation material tabled at the meeting was circulated vide LC Paper No. CB(1) 435/02-03(01)on 4 December 2002.)

Meeting with deputations

3. The Chairman said that deputations could give views on the proposed FGF and/or other issues related to the development of the film industry.

CineFinance

LC Paper No. CB(1)390/02-03(01) "Statement in support of TELA Loan Guarantee Proposal" (English version only)

4. Supporting the proposed FGF, Ms Ivy LAW highlighted that the company was one of the three companies worldwide offering completion guarantees for film productions. The company supported the proposed establishment of FGF and urged that a film-financing infrastructure with film completion arrangement should be set up in Hong Kong as a kind of insurance system similar to those long-established systems in the United States (US) and Europe.

Federation of Hong Kong Film Workers

LC Paper No. CB(1)356/02-03 Revitalizing Hong Kong Film Industry Report (Chinese version only)

LC Paper No. CB(1)400/02-03(01) Government support to Hong Kong Film Industry : A Submission (Chinese version only)

5. On behalf of the Federation of Hong Kong Film Workers and nine affiliated organizations of the Federation, Mr NG See-yuen expressed their unanimous support for the proposed FGF. They were pleased to note that the Government had taken the initiative to strengthen the film financing system, an infrastructure that had not been fully developed in the prime years of film production and extended to the banking sector, the major participating lending institutions (PLIs). Mr NG remarked that to help PLIs manage risk against non-completion of film production, sufficient measures would be taken to ensure that film production supported by FGF would be monitored closely by agents providing film completion arrangement on behalf of the PLI concerned. In addition, to enhance the understanding of the banking sector about film production process and to facilitate the PLIs in assessing loan applications, the film industry would draw up a list of advisors or organizations that could offer professional advice and consultancy in the areas of film production and distribution. Mr NG opined that when the PLIs became more familiar with film financing, the Government could gradually withdraw its role in providing loan guarantee to PLIs. He believed that the proposed establishment of FGF would help the film industry in Hong Kong enhance its competitive edge and re-establish its leading position on film productions in the region.

Hong Kong Film Directors' Guild

6. Mr CHEUNG Tung-joe expressed appreciation for the hard work of TELA in bringing about the establishment of the FGF. He believed that the proposed film financing infrastructure would be welcomed by independent filmmakers. He also referred to the successful production of "Crouching Tiger, Hidden Dragon" which would not be possible without the film financing and completion bond system.

7. On other issues of concern to the development of the film industry, Mr CHEUNG Tung-joe made the following points:

- (a) While appreciating the efforts of the Film Services Office (FSO) under TELA in coordinating the availability of government premises for location shooting, some difficulties had been encountered with certain departments over location shooting at their premises.
- (b) As the advancement and culture of Hong Kong would be reflected in Hong Kong films shown overseas, the Administration should consider setting up a coordination centre to facilitate film making in Hong Kong so as to promote the image of Hong Kong in international markets.
- (c) As there was inadequate supply of stuntmen in Hong Kong, the Administration should consider allowing the industry to recruit these professionals from the Mainland.

Hong Kong, Kowloon & New Territories Motion Picture Industry Association Limited

8. Mr Patrick TONG expressed the great support of the Association for the proposed FGF. If required, the Association could also help draw up the list of advisors in offering professional advice in the areas of film production and distribution. He attributed the decline of the local film industry to the rampant problem of piracy in overseas markets and urged the Government to tackle the problem without delay.

Hong Kong Performing Artistes Guild

9. Miss Cecilia LEE welcomed the proposed scheme. Notwithstanding that the Government had always invited artistes to help promote civic education and tourism, she noted with regret that there were insufficient safeguards under existing legislation to protect the image rights and intellectual property rights of the artistes. Furthermore, unethical media reports on artistes had damaged the images of some artistes. She urged the

Administration to step up efforts in promoting media ethics to protect the interest of artistes.

Movie Producers & Distributors Association of Hong Kong Limited(MPDA)

LC Paper No. CB(1)411/02-03(01) Submission by the Movie Producers and Distributors Association of Hong Kong (Chinese version only)

10. Mr Raymond WONG indicated the strong support of the Association for the proposed scheme. He anticipated that participation of the banking sector in film financing would help revitalize the film industry. He also opined that as the film processing and printing laboratories were responsible for developing the film negatives after completion of shootings, they were able to confirm whether the film projects in question had been completed on schedule. Hence, these parties could also be involved in the film completion arrangement.

Society of Cinematographers (Hong Kong)

11. Mr Adam TAM, also representing Hong Kong Cine & TV Lighting Association Ltd, fully supported the proposal. He also considered that the Film Development Fund (FDF) should be further enhanced for the purpose of improving the professional standard of the industry workforce. In the longer term, he was of the view that a Film Commission should be set up to facilitate the provision of professional training to the industry workforce.

General Discussion

12. The Chairman invited members and the Administration to exchange views on issues raised by the deputations, which included the proposed FGF, intellectual property rights relating to artistes, education on media ethics, piracy, one-stop shop for co-ordinating film services, the establishment of a Film Commission, and professional skills training.

Amount of Loan Guarantee under the FGF

13. Mrs Selina CHOW declared her interest as a member of the FDF Projects Vetting Committee and of FSAC. She was pleased to note that, after prolonged discussion with the industry for over a decade, the Administration had finally implemented policy initiatives to promote the Hong Kong film industry, as evidenced by the pilot scheme of FGF aimed at creating a conducive environment for the development of a film financing infrastructure in Hong Kong. She sought deputations' views on the currently proposed relaxation of the proposed budget ceiling of \$7.5 million for each film, as opposed to capping the budget of each film under FGF at \$7.5 million as

originally proposed, while maintaining the maximum amount of loan guarantee for each film at \$2.625 million, i.e. a guarantee of 50% of a maximum of \$5.25 million out of the loan offered by a PLI.

14. Mr NG See-yuen remarked that as the production costs of some films in the past few years had already reached \$20 to \$30 million, \$7.5 million was a meagre production budget. The proposed amendment, on the other hand, would enable more film productions, including those of a large budget exceeding \$7.5 million, to benefit from the proposed scheme. With greater competition, more high-quality films would be produced. He anticipated that the proposed FGF would be a new milestone in the development of film industry in Hong Kong.

15. In comparing the level of funding for FGF with that of other schemes such as the proposed \$5.02 billion Home Assistance Loan scheme, Mr Albert CHAN considered the presently proposed \$50 million FGF for the film industry a minimal sum. He also commented that the originally proposed budget ceiling of \$7.5 million was an unnecessary restriction for large-scale productions. Mr CHAN further pointed out that as the Government had not provided the necessary support to the film industry such as by setting up a Film Commission as had been proposed for years, artistes might re-consider whether or not to participate in the publicity activities organized by the Government.

16. In this regard, Mr John SHAM said that film workers would not hesitate to assist the Government where appropriate. On the proposed scheme, he considered that as the film production company had to bear at least 30% of the budgeted cost and was the last party to yield any return from the production, it was likely that only those film makers who were confident about their production would consider applying for FGF. Mr NG See-yuen supplemented that the establishment of the proposed FGF was indeed timely and would build a proper lender financing infrastructure when the traditional source of financing for film companies had been tightened up in the wake of the financial turmoils.

17. Mr David CHU appreciated the film industry's self-reliance. He attributed the economic success of the United States largely to the success of its film industry and believed that the local film industry would also bring about significant economic benefits to Hong Kong. Having regard that the Administration had allocated substantial funding for other projects such as the installation of noise barriers along Tolo Harbour, he considered the proposed \$50 million FGF relatively meagre and urged the Administration to consider increasing the level of funding after review. Mr YEUNG Yiu-chung echoed Mr CHU's view that the proposed amount of FGF was grossly inadequate in relieving the current difficulties faced by the film industry. He was interested in knowing the estimated number of films which could benefit from the FGF.

18. On the financing arrangements, Mr John SHAM explained that in case of a default, the film production company would be required to repay the outstanding loan to the PLI with the balance of the 30% budget (30% of the budget if the budget is below \$7.5 million, or 30% of the \$7.5 million of the budget if the budget is above \$7.5 million) borne by it. The revenue recovered from the production, if any, would also be used to repay the outstanding loan to the PLI. In case the balance of the 30% budget and the revenue together could not meet the outstanding loan to the PLI, then the Government as the guarantor under the FGF would have to take up liability for 50% of the outstanding loan and pay the PLI accordingly. Any amount eventually recovered from the film production company, such as additional revenue generated from overseas distribution, would be shared between the Government and the PLI according to the 50% risk-sharing ratio. Mr John SHAM took the view that the loan guarantee would be used as a last resort in case of a default and the number of such cases would likely be small. Given that the FGF would operate on a revolving basis, he anticipated that the number of films that could be guaranteed under the proposed \$50 million FGF in the initial pilot period of two years could be well above the Administration's estimated number of 19.

19. Mr MA Fung-kwok highlighted that as funding for the proposed FGF was in fact set aside from the current balance of the FDF, the present proposal actually did not involve additional funding. On the adequacy of the scheme, he considered that the \$50 million FGF would attract investment of another \$50 million, which together should be able to fund the production of some 30 to 40 films. Mr MA further said that the success or otherwise of the proposed scheme should be assessed in terms of the profits, no matter how small, ultimately yielded by the film production company. As there might be conflict of interest for experts within the film industry to provide advice to the banking sector in assessing loan applications, Mr MA considered that the Government should also help the banking sector to strengthen their professional capability on media financing, and take steps to enhance the role of film completion arrangement in film financing.

20. In consideration that it was a commercial decision for the film production company to apply for a loan from a PLI and produce the film under the proposed FGF, Mr John SHAM said that if the production in question finally led to a loss on the part of the film production company, both the PLI and the Government should not be held liable for the loss.

Quality of local films

21. While acknowledging that the proposed FGF might help alleviate the financial difficulties faced by the film industry and improve the unemployment problem, Ms Emily LAU sought the deputations' views on whether the

establishment of FGF could in fact help ensure the quality of films thus produced.

22. Mr John SHAM explained that creative productions, which usually were of a high quality but ran greater risk in securing local and overseas box office receipts, were more prevalent at times of a vibrant economy. On the other hand, for economic reasons, film makers tended to be more market-oriented and were less inclined to put effort in producing creative films under an unfavourable economic climate. He anticipated that with a healthy film financing system in place, the creativity and thus quality of local films would be raised. In fact, the film crew of some films that had won international acclaim such as "Crouching Tiger, Hidden Dragon" mainly came from Hong Kong which showed that creativity was not lacking among Hong Kong film workers.

23. Ms Emily LAU was concerned about the FGF being used to finance the production of low-quality or indecent films. On this issue, Mr NG See-yuen referred to the importance of upholding the freedom of expression and considered it undesirable for the Government to vet the theme or content of the films when assessing loan applications. Nevertheless, the film industry would offer advice to PLIs in areas such as production arrangements, overseas distribution agreements and so on to facilitate the assessment. While he could not rule out the possibility that some low-quality or indecent films might obtain assistance under the FGF, he believed that such practice would not prevail as the film industry continued to strive to improve the quality of its productions in a competitive environment.

24. As to whether the proposed FGF would help raise the professional standard of film production in Hong Kong to international levels, Mr NG See-yuen stressed that world-class film workers abounded in Hong Kong. However, the local market was too small to enable the film industry to flourish. In fact, in recent years, many US film production companies had set up their branches in Hong Kong and capitalize on the human capital and talents locally available. He said that some of the large-scale productions became very successful while the local film industry was shrinking simply due to the lack of financial resources.

25. Noting some comments during the briefing session for the film industry on the consultation paper that the Hong Kong Police Force (the Force) had expressed reservation in providing assistance in location shooting where the film in question was about robbery by uniformed policemen, Ms Cyd HO sought assurance that no censorship of content would be carried out for films supported by the proposed FGF.

26. In response, DSCIT(ITB) confirmed that under the present proposal, the FGF would not vet the theme or content of the films. However, the productions would eventually have to be classified like any other films under the three-tier film classification system before public exhibition. As regards the incident referred to by Ms Cyd HO concerning the image of uniformed police in film productions, Mr John SHAM commented that it might be the discretion of an individual officer, rather than an internal policy of the Force, to discourage production depicting unruly behaviour of uniformed police.

27. Citing the case of a university lecturer whose production had been invited to take part in an overseas film festival but was unable to do so due to the lack of financial resources in converting it into theatrical release, Ms Cyd HO was concerned whether the FGF would be useful in attracting new entrants to the film business. In this connection, Mr CHEUG Tung-joe commented that there were plenty of opportunities for new entrants. Mr John SHAM pointed out that at present, local new entrants in film making could apply for a One-Year Grant funded under the Hong Kong Arts Development Council.

Film Commission

28. Noting that different aspects of film development in Hong Kong were currently overseen by various public bodies and government agencies, Mr John SHAM saw the need to centralize these services under a higher-level body, such as a Film Commission. He stressed that the level of the official body overseeing film development should be commensurate with the fact that the film industry was an important and valuable asset to Hong Kong. In this connection, Ms Cyd HO said that any such official body should address the need to create more development opportunities for young people in related fields such as computer animation production and film trading, and to facilitate new entrants joining the industry.

29. Given that considerable resources had been made available to a number of public agencies, including the FSO, Mr MA Fung-kwok suggested that the Government should consider consolidating the resources to enhance the role and function of FSO to the level of a Film Commission. Referring to the "Revitalizing Hong Kong Film Industry Report" published by the Federation of Hong Kong Film Workers, he considered that the Government should follow up the suggestions such as the establishment of a post-production centre and the opening up of overseas and Mainland markets. In this regard, Mr John SHAM invited members to note the said report which contained the views and key proposals of the film industry on film financing, production, distribution and other relevant aspects.

Location shooting

30. Mr NG See-yuen claimed that certain government departments were rather reluctant to make premises under its control available for location shooting and charged high fee for the use. The matter was finally brought to the attention of the Office of the Chief Executive. While noting the need to assist the industry in location shooting, Mrs Selina CHOW nevertheless said that the incident might be due to the bad impression projected by some uncooperate members of the trade. She considered that the film industry should also strengthen its management in this aspect.

31. Mr John SHAM pointed out that building a film financing infrastructure with the support of film completion arrangement could help strengthen the overall management of the film industry. Under the new framework where a number of parties (such as PLIs and completion bond companies) were overseeing the progress of the production, film workers would need to be more professionally disciplined and vigilant. As TELA had drawn up a comprehensive list of guidelines and procedures for location filming, Mr CHEUNG Tung-joe believed that it would take some time for the film workers to be familiar with relevant rules on film making in public areas. It also took time for the government officials and the general public to appreciate film makers' needs in location shooting.

32. On location filming, the Commissioner for Television and Entertainment Licensing (C for T&EL) pointed out that over the years, the FSO had developed procedures for processing requests for filming on properties under the control of the Government and public bodies. On the whole, the procedures had worked well. He believed that the incident referred to by Mr NG was an isolated case. He further stressed that in considering applications for location filming, FSO had to strike a balance between meeting the needs of the film makers and ensuring that service to or convenience of the public would not be affected. Indeed, there had been incidents in which uncooperative film workers had caused nuisance to other people. He nevertheless informed all parties concerned that the FSO would continue to make the best efforts to facilitate location shooting in Hong Kong.

33. Ms Cyd HO said that the Hospital Authority (the HA) had recently revised its charges for location shooting which the film industry considered quite high. She enquired about the mechanism in determining the charges. In reply, C for T&EL pointed out that the HA, after discussion with the film industry, had streamlined the charging mechanism and implemented a charging policy for location shooting on its premises on a cost-recovery basis. The industry had been consulted on the new charging schedules of the HA in May 2002. Since then, the FSO had received some 30 requests for filming at HA premises but no complaint regarding the charges had been received so far. In addition, the Administration had recently standardized its charging policy for

location filming on government land/in government premises on a cost-recovery basis.

The Mainland market

34. Mr CHEUNG Tung-joe considered that the Government should assist the industry on film distribution to the Mainland markets, in particular the cities in Guangdong Province. Echoing Mr CHEUNG's view, Mr MA Fung-kwok pointed out that there were over 100 million potential viewers of Hong Kong films in Guangdong and Guangxi provinces where the people also understood Cantonese.

Copyright issues

35. On the Administration's effort in combating piracy in overseas markets, Mr John SHAM pointed out that the government of the Macau Special Administrative Region would impose a fine of \$4,000 on any person found importing pirated VCDs or laser discs. In this regard, the Chairman remarked that under the laws of Hong Kong, it was not a criminal offence to import a duplicated VCD or laser disc for personal use. However, the Customs and Excise Department might investigate any suspected cases of importing more than one VCD or laser disc during customs clearance.

36. Referring to the recent proposal under the Copyright (Amendment) Bill 2001 that computer software featuring films or music programmes of less than 20 minutes' duration could be parallel imported, Mr MA Fung-kwok was gravely concerned that such proposal was indeed incompatible with anti-piracy measures. He pointed out that the Administration should not only focus their work on the local market but should also strive to safeguard the copyright of Hong Kong films in the Mainland where there were over 1.3 billion potential viewers.

The Administration's initial responses

37. At the Chairman's invitation, DSCIT(ITB) highlighted the following points in response to comments by the deputations -

- (a) The pilot scheme of FGF would operate on a revolving basis and the loan guarantee discharged by PLIs would be ploughed back into the FGF for providing guarantee to new applications. As such, the actual number of films that could benefit from the scheme would be greater and the total budget of films guaranteed could be over \$140 million.

- (b) The proposal to admit stuntmen from the Mainland would need to be considered in the context of the Admission of Talents Scheme. Funds from FDF had been disbursed to run a training programme for stuntmen and the industry was welcomed to propose further training opportunities for stuntmen.
- (c) The One-Year Grant under the Hong Kong Arts Development Council was a direct grant whereas the proposed FGF was a loan guarantee. Independent film makers with no track record could consider producing films in collaboration with experienced producers or directors and apply for the proposed FGF.
- (d) With the support of film completion arrangement, the system of film productions would be upgraded with the implementation of the proposed FGF in terms of control over cost, implementation, production schedules etc.
- (e) The proposed FGF was drawn up with reference to the former Special Finance Scheme launched to support SMEs, and the Business Installations and Equipment Loan Scheme for SMEs currently in operation.
- (f) The FSAC and FSO had served the functions of a Film Commission. The various parties involved in promoting the film industry, such as the Trade Development Council etc were also respresented on the FSAC.
- (g) On the Administration's active efforts to combat piracy in Hong Kong, the Customs and Excise Department (C&ED) would continue its efforts to combat piracy. C&ED would also liaise with their counterparts in overseas governments to deal with specific cases of piracy, upon receipt of information from the film industry.
- (h) The issue of intellectual property rights of artistes would require careful study.

Way forward

38. In conclusion, the Chairman said that the Panel supported the proposed FGF in principle. He requested the Administration to take note of the various concerns raised by deputations and members at the meeting and to revert to the Panel with a detailed response by February 2003.

Admin

II Any other business

39. There being no other business, the meeting ended at 6:20 pm.

Council Business Division 1
Legislative Council Secretariat
23 January 2003