

**Extract of Minutes of Meeting between Legislative Council Members  
and Yau Tsim Mong District Council Members  
on Thursday, 24 May 2001, at 10:45 am  
in Conference Room A of the Legislative Council Building**

X            X            X            X            X            X            X            X

**The Intellectual Property (Miscellaneous Amendments) Ordinance 2000**

11. Mr WONG Che-ming queried whether it was proper to make copyright piracy in business a criminal offence under the Intellectual Property (Miscellaneous Amendments) Ordinance 2000. He said that the legislation before the amendment was good enough for combating copyright piracy. Besides, as copyright owners had always been devoted to protecting their rights, it was indeed unnecessary to criminalize infringement acts. He opined that such a move would only stifle wider dissemination of intellectual innovations, and have severe impact on the education sector and non-profit making organizations in particular. He advised that the Government should give more consideration to exploring means to encourage the development of computer software so as to reduce the territory's reliance on software with patent rights, as well as protecting the general public against exploitation by copyright owners who monopolized the market.

12. Mr LAI Chi-lap advised that the legislation concerned had gone overboard, and the penalty of imprisonment was too harsh on people selling pirated compact discs.

13. Mr LI King-wah said that the protection of intellectual property and the prevention of monopolization of the market by copyright owners were equally important. He considered that in criminalizing infringement acts, the Government might be perceived as using public resources to protect the interests of cartels, which was a deviation from the priority norm for the use of public money. He therefore supported Mr WONG Che-ming's proposal to suspend the legislation indefinitely.

14. Mr SHING Yuen-hing said that he was not opposed to the Government enhancing the protection for intellectual property rights in a progressive manner. However, the criminalization of infringement acts should initially be applied only to people engaged in the production and sale of pirated products, and not the users. Citing users of computer software as an example, he pointed out that many operators of small businesses were in fact unable to identify whether the software being used was a pirated copy. He considered that the problem of piracy could be resolved if effective enforcement actions were taken against people engaged in the production and sale of pirated products.

15. Mr CHAN Man-yu also disagreed with the criminalization of infringement acts.

16. Mr LEUNG Wai-kuen agreed that certain infringement acts, such as the production and sale of pirated products, should be made criminal offences.

17. Mr Gopaldas Holaram AHUJA did not support the use of harsh legislation to combat infringement acts. He pointed out at present some copyright owners often sued innocent people unreasonably.

18. Miss CHOY So-yuk advised that the Government should strike a balance among various interests in society when protecting intellectual property. The types of goods to be protected should not be extended infinitely. She agreed with Mr WONG Che-ming's proposal that the Government should encourage the development of computer software. She suggested that the LegCo Panel on Information, Technology and Broadcasting (ITB Panel) should discuss whether the Government and non-government organizations should take the lead to design software for PC platform of their own, or use non-patented software for PC platform, so as to break the market monopoly posed by patented software for PC platform and encourage the development of computer software. The Convenor agreed to convey the suggestion to ITB Panel for discussion.

Secretariat

19. Mr James TO noted the concerns of the DC members on the matter. Nevertheless, he pointed out that it had been the international trend to increase protection for intellectual property. As an international city, Hong Kong would have to follow suit. He advised that the Government was aware of the problems arising from the implementation of the new law, and had taken actions to suspend the implementation of certain parts. The community at large should discuss rationally the means for improving the legislation, instead of making a hasty decision to revoke the entire legislation or bring Hong Kong back to the previous standard on the protection of intellectual property.

20. Mr LAU Chin-shek advised that the existing intellectual property rights in developed countries had made undeveloped countries pay a heavy price for using the knowledge concerned. Apart from computer software and musical works, which were regarded as intellectual property, necessities such as medicines were also included. Therefore, a balance should be struck between humanitarian cause and the protection of intellectual property. Whether intellectual property should be shared among the world or possessed by a few remained a controversial issue. He agreed that the new legislation should be suspended.

21. Mr Fred LI also appreciated the concerns of DC members. Nevertheless, he cited the filming industry of Hong Kong as an example to illustrate the need to deal with the problem carefully. Film makers had all along only been able to take legal actions against those who infringed copyrights through civil remedies

but this had failed to deter the sale of pirated compact discs of movies. He advised that LegCo would definitely handle the matter cautiously in order to achieve the best balance.

Secretariat 22. The Convenor advised that the views of DC members would be forwarded to the Bills Committee on the Copyright (Suspension of Amendments) Bill 2001.

Legislative Council Secretariat

26 June 2001