

立法會
Legislative Council

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Panel on Information Technology and Broadcasting

**Minutes of special meeting
held on Thursday, 25 March 2004, at 2:30 pm
in the Chamber of the Legislative Council Building**

- Members present** : Hon SIN Chung-kai (Chairman)
Hon Howard YOUNG, SBS, JP (Deputy Chairman)
Dr Hon David CHU Yu-lin, JP
Dr Hon Eric LI Ka-cheung, GBS, JP
Hon CHAN Kwok-keung, JP
Hon YEUNG Yiu-chung, BBS
Hon Emily LAU Wai-hing, JP
Hon Timothy FOK Tsun-ting, SBS, JP
Hon Albert CHAN Wai-yip
Hon MA Fung-kwok, JP
- Members absent** : Dr Hon Philip WONG Yu-hong, GBS
Dr Hon LAW Chi-kwong, JP
- Public officers attending** : Agenda Item I and II

Mr Francis HO, JP
Permanent Secretary for Commerce, Industry and
Technology
(Communications and Technology)

Mrs Betty FUNG, JP
Deputy Secretary for Commerce, Industry and
Technology
(Communications and Technology)

Agenda Item I

Miss Helen TANG
Principal Assistant Secretary for Commerce, Industry
and Technology
(Communications and Technology)

Ms Lorna WONG
Commissioner for Television and Entertainment
Licensing

Miss Angela LUK
Assistant Commissioner for Television and
Entertainment Licensing (Entertainment)

Mr Donald CHEN
Principal Assistant Secretary for Commerce, Industry
and Technology (Commerce & Industry)

Miss Pancy FUNG
Assistant Director of Intellectual Property
(Copyright)

**Attendance by
Invitation**

: Agenda Item I

The Federation of Hong Kong Film Workers

Mr CHEUNG Tung-joe
Vice Chairman

Movie Producers & Distributors Association of Hong
Kong Limited

Mr Tony SHU
Executive Secretary

Hong Kong Kowloon & New Territories Motion
Picture Industry Association Limited

Mr Patrick TONG
Vice-chairman

Mr Woody TSUNG
Chief Executive

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

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

Mr S C TSANG
Senior Council Secretary (1)7

Ms Sharon CHAN
Legislative Assistant (1)6

Action

I Measures to facilitate the development of film industry

(LC Paper Nos. CB(1) 1326/03-04(02), 1391/02-03, 1362/03-04(01) and 1378/03-04(01))

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Issues relating to the rental right of movie products and illegal downloading of movie products from the Internet

19. Mr MA Fung-kwok shared the concerns of the film industry about illegal downloading of movie products from the Internet and the rental right of such products. PASCIT(CI) said that the existing provisions on rental right in the Ordinance were in line with the requirements of the relevant international agreements. In view of the request of the film industry that the provisions on rental right in the Ordinance be extended to cover movie products, the Administration would examine the provisions relating to rental right in the context of the future review on criminal liabilities of end-users under the Ordinance and consult the film industry accordingly. As regards illegal downloading of movie products from the Internet, PASCIT(CI) advised that under the existing provisions in the Ordinance, a person would be liable for a criminal offence if he distributed infringing copies of copyright products on the Internet. There had been successful prosecutions against the aforesaid offences. Regarding the various modes of illegal downloading of movie products from the Internet, notably "Bit Torrent" (BT) as mentioned in MPIA's submission, PASCIT(CI) said that due to the rapid development of technology and the absence of decided cases from other jurisdictions, the Administration would study the downloading act and the different modes of transmission of copyright works on the Internet so as to ascertain whether such act and modes of transmission would give rise to criminal liability. Following the study, the Administration would then decide whether specific measures had to be formulated to address the issue.

20. Mr Woody TSUNG, Chief Executive of MPIA, briefly explained the illegal downloading of movie products from the Internet by BT. He said that through sowing a "seed" on the Internet, such as in a news group or on a web page, BT would enable a number of Internet users to locate the files of certain movie products simultaneously through peer to peer (P2P) transfer and to download the files. Although the "seed" did not constitute a copyright infringing tool under the Ordinance, Mr TSUNG pointed out that the act of openly sowing "seeds" on the Internet to inform others of the location of the files of movie products to be downloaded had obviously induced others to commit an infringement act. Against this background, he urged the Administration to consider making the unauthorized downloading of movie products from the Internet a criminal offence. Ms Emily LAU urged the Administration to duly follow up the concerns of the deputation.

21. The Chairman pointed out that the illegal downloading from the Internet involved copyright issues and would therefore come within the ambit of the Commerce and Industry Branch of the Bureau. Besides, this problem of unauthorized downloading would jeopardize the interests of the creative industries, including the film industry and the music industry. The Chairman therefore suggested and members agreed that the subject be referred to the Panel on Commerce and Industry for further study with the Administration and the relevant industries.

Secretariat

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