

Bills Committee on Copyright (Amendment) Bill 2009

Issues requiring follow-up action/consideration by the Administration
(position as at 9 October 2009)

Date of meeting	Issues	Outcome
9 June 2009	<p>The Administration was requested to:</p> <ul style="list-style-type: none"> (a) provide a written response to the views expressed by deputations at the meeting and in the written submissions received; (b) account for the rationale and basis for the definition of an "infringing page" as "a side of a page" in section 1(1) of the new Schedule 1AA in clause 4 of the Bill; (c) set out and illustrate, by example where appropriate, how the numeric limits would operate under the relevant provisions in the Bill, including the circumstances in which the copying and distribution offence would apply; and (d) provide information on experience of other relevant jurisdictions (including the United States, Taiwan and others) on prescribing a dollar value as numeric limits/thresholds in determining whether a criminal offence for copyright infringement had been committed. In the case that such numeric limits had been subsequently repealed, the reasons for the repeal. 	<p>The information provided by the Administration in respect of (a) and (b) to (d) were circulated to members vide LC Paper Nos. CB(1)1974/08-09(01) and CB(1)1974/08-09(02) respectively on 18 June 2009.</p>
22 June 2009	<p>The Administration was requested to:</p> <ul style="list-style-type: none"> (a) consider replacing the words "a side of a page" with "a side of a leaf/sheet" in the definition of "infringing page" in section 1(1) of the new Schedule 1AA in clause 4 of the Copyright (Amendment) Bill 2009 (the Bill); (b) set out the elements that constitute the copying and distribution offence under section 119B of the Copyright Ordinance (Cap. 528) and explain the circumstances under which the offence would or would not apply; 	<p>The information provided by the Administration in respect of (b), (c) and (d) was circulated to members vide LC Paper No. CB(1)2156/08-09(01) on 3 July 2009.</p>

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	<p>(c) provide information on whether operators of a copying service business and student unions/groups making copies of a copyright work in a printed form in excess of the prescribed numeric limits without authorization of the copyright owners would commit the copying and distribution offence under section 119B of the Copyright Ordinance and/or any other provisions; and</p> <p>(d) explain the meaning of the terms "qualifying copy" in section 1(1) of the new Schedule 1AA in clause 4 of the Bill, especially when it related to specified journals, and "comparable copy" in sections 5(2), 7(2) and 8(2) of the new Schedule 1AA in clause 4 of the Bill, and consider if it was appropriate to use the term "qualifying copy" in the Bill.</p>	
7 July 2009	<p>The Administration was requested to:</p> <p>(a) clarify, with reference to the provisions under section 119B of the Copyright Ordinance, whether the defendant's knowledge of the extent of his making or distribution of infringing copies at the material time in excess of the prescribed numeric limits was an element of the copying and distribution offence;</p> <p>(b) provide examples of the penalty level for white-collar offences (such as default in payment of Mandatory Provident Fund contribution) in the relevant legislation, as compared with the penalty level for the copying and distribution offence under section 119B(17) of the Copyright Ordinance; and</p> <p>(c) provide information on the penalty level for similar offence in the copyright law of other jurisdictions such as the United States.</p>	<p>The information provided by the Administration was circulated to members vide LC Paper No. CB(1)2635/08-09(01) on 22 September 2009.</p>
28 September 2009	<p>The Administration was requested to:</p> <p>(a) consider how best to define the term "infringing page" in section 1(1) of the new Schedule 1AA in clause 4 of the Bill, taking into account the views of Dr Margaret NG and the Law</p>	<p>The information provided by the Administration in respect of (a) and (b)</p>

Date of meeting	Issues	Outcome
	<p>Society (paragraph 13 of LC Paper No. CB(1)2276/08-09(01)); and</p> <p>(b) provide all proposed Committee Stage amendments to the Bill for members' consideration.</p>	<p>were circulated to members vide LC Paper Nos. CB(1)2754/08-09(01) and CB(1)2754/08-09(02) on 8 and 9 October 2009 respectively.</p>

Council Business Division 1
Legislative Council Secretariat
 9 October 2009