

**立法會**  
**Legislative Council**

LC Paper No. CB(4)1028/13-14  
(These minutes have been seen  
by the Administration)

Ref : CB4/BC/6/13

**Bills Committee on Copyright (Amendment) Bill 2014**

**Minutes of the first meeting**  
**held on Thursday, 17 July 2014, at 4:30 pm**  
**in Conference Room 2 of the Legislative Council Complex**

- Members present** : Hon CHAN Kam-lam, SBS, JP (Chairman)  
Hon Emily LAU Wai-hing, JP  
Hon Vincent FANG Kang, SBS, JP  
Hon Jeffrey LAM Kin-fung, GBS, JP  
Hon Andrew LEUNG Kwan-yuen, GBS, JP  
Hon WONG Ting-kwong, SBS, JP  
Hon Cyd HO Sau-lan, JP  
Hon Paul TSE Wai-chun, JP  
Hon WONG Yuk-man  
Hon Claudia MO  
Hon YIU Si-wing  
Hon Gary FAN Kwok-wai  
Hon Charles Peter MOK, JP  
Hon CHAN Chi-chuen  
Hon Alice MAK Mei-kuen, JP  
Hon Dennis KWOK  
Hon SIN Chung-kai, SBS, JP  
Hon CHUNG Kwok-pan
- Members absent** : Hon Abraham SHEK Lai-him, GBS, JP  
Hon Ronny TONG Ka-wah, SC  
Hon MA Fung-kwok, SBS, JP  
Hon CHAN Yuen-han, SBS, JP  
Dr Hon Elizabeth QUAT, JP  
Hon Martin LIAO Cheung-kong, SBS, JP  
Hon Christopher CHUNG Shu-kun, BBS, MH, JP

**Public officers attending** : Agenda item II

Commerce and Economic Development Bureau

Mr David F L WONG, JP  
Deputy Secretary for Commerce and Economic  
Development  
(Commerce and Industry)2

Miss Patricia SO  
Principal Assistant Secretary for Commerce and  
Economic Development  
(Commerce and Industry)3

Intellectual Property Department

Ms Michelle CHONG  
Assistant Director of Intellectual Property  
(Copyright)

Department of Justice

Mr LAM Siu-chung, Michael  
Senior Assistant Law Draftsman

Mr CHAN Ngai-him, Henry  
Acting Senior Government Counsel

**Clerk in attendance** : Ms YUE Tin-po  
Chief Council Secretary (4)3

**Staff in attendance** : Miss Carrie WONG  
Assistant Legal Adviser 4

Mr Joey LO  
Senior Council Secretary (4)3

Miss Mandy NG  
Council Secretary (4)3

Action

---

**I. Election of Chairman**

Mr CHAN Kam-lam was elected Chairman of the Bills Committee.

**II. Meeting with the Administration**

- (LC Paper No. CB(3)719/13-14 -- The Bill
- File Ref.: CITB 07/09/17 -- Legislative Council Brief issued by the Commerce and Economic Development Bureau on 11 June 2014
- LC Paper No. LS63/13-14 -- Legal Service Division Report
- LC Paper No. CB(4)871/13-14(01) -- Marked-up copy of the Bill prepared by the Legal Service Division (Restricted to members)
- LC Paper No. CB(4)960/13-14(01) -- Paper on Copyright (Amendment) Bill 2014 prepared by the Legislative Council Secretariat (Background brief)
- LC Paper No. CB(4)923/13-14(01) -- Submission from The American Chamber of Commerce in Hong Kong dated 17 June 2014 (English version only)
- LC Paper No. CB(4)923/13-14(02) -- Submission from Hong Kong Copyright Concern Group dated 18 June 2014 (English version only)

Action

Discussion

2. The Bills Committee deliberated (Index of proceedings attached at **Appendix**).

Follow-up actions to be taken by the Administration

3. The Administration was requested to provide the following information:

- (a) precedent cases involving the use of the concept of "substitution for the work" regarding a non-exhaustive list of factors for determining whether any distribution of a copy of a work was made to such an extent as to affect prejudicially the owner of the copyright in the work; and
- (b) precedent cases illustrating the factors considered by the court when determining whether the dealing with a work was "fair dealing" or "fair use".

Date of next meeting

4. Members agreed that the next meeting should be held in early October 2014 to receive a more detailed briefing by the Administration on the Bill, to be followed by another meeting in mid October 2014 to receive views on the Bill from members of the public.

**III. Any other business**

5. There being no other business, the meeting ended at 5:25 pm.

Council Business Division 4  
Legislative Council Secretariat  
22 August 2014

## Appendix

**Proceedings of the first meeting of  
Bills Committee on Copyright (Amendment) Bill 2014  
on Thursday, 17 July 2014, at 4:30 pm  
in Conference Room 2 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
<b>Agenda item I – Election of Chairman and Deputy Chairman</b>			
000122 – 000430	Mr WONG Ting-kwong Mr Andrew LEUNG Mr CHAN Kam-lam Ms Emily LAU Mr WONG Yuk-man Ms Claudia MO Mr YIU Si-wing Mr Charles Peter MOK Mr Gary FAN	Election of Chairman	
<b>Agenda item II – Meeting with the Administration</b>			
000431 – 001450	Chairman Administration	Briefing by the Administration	
001451 – 002518	Chairman Ms Claudia MO Mr WONG Yuk-man Administration	Discussion on the operation of the safe harbour mechanism and the concept of "User Generated Content".	
002519 – 003030	Chairman Mr CHAN Chi-chuen Administration	Discussion on communication right, copyright exceptions and whether the sharing of hyperlink would constitute "communication" under the Bill.	
003031 – 003608	Chairman Mr YIU Si-wing Administration	Mr YIU Si-wing's enquiry and the Administration's response regarding copyright infringements which were committed in overseas jurisdictions.	
003609 – 004435	Chairman Mr Charles Peter MOK Mr SIN Chung Kai	Meeting arrangements	
004436 – 004942	Chairman Mr Dennis KWOK Administration	Discussion on the drafting of the proposed section 118(8C)(a), and the concept of "substitution for the work" under proposed subsection (8C)(b) regarding a non-exhaustive list of factors for determining whether any distribution of a copy of a work was made to such an extent as to affect prejudicially the owner of the copyright in the work.  Discussion on the factors to be considered by the court in determining whether any dealing with a	The Administration to follow up as per paragraph 3(a) and (b) of the minutes.

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
		work was "fair dealing".	
004943 – 005435	Chairman Mr SIN Chung-kai Mr Charles Peter MOK	Invitation of views	

Council Business Division 4  
Legislative Council Secretariat  
22 August 2014