

立法會
Legislative Council

LC Paper No. CB(4)251/14-15
(These minutes have been seen
by the Administration)

Ref : CB4/BC/6/13

Bills Committee on Copyright (Amendment) Bill 2014

Minutes of the fifth meeting
held on Tuesday, 18 November 2014, at 10:45 am
in Conference Room 1 of the Legislative Council Complex

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

Public officers attending : Agenda item II

Commerce and Economic Development Bureau

Mr David 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)

Ms Jasmine KUN
Senior Solicitor (Copyright) 3

Department of Justice

Mr Michael LAM
Senior Assistant Law Draftsman (I)1

Mr Henry CHAN
Senior Government Counsel (Acting)

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

Action

I. Confirmation of minutes of meeting

LC Paper No. CB(4)156/14-15 -- Minutes of meeting held on 14 October 2014

The minutes of the meeting held on 14 October 2014 were confirmed.

II. Meeting with the Administration

Follow-up to issues arising from the meeting on 14 October 2014

LC Paper No. CB(4)153/14-15(02) -- Administration's response to follow-up actions arising from the meeting on 14 October 2014

Clause-by-clause examination of the Bill

LC Paper No. CB(3)719/13-14 ---- The Bill

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)153/14-15(01) -- Assistant Legal Adviser's letter dated 7 November 2014 to the Administration

Other relevant papers

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

Action

- LC Paper No. CB(4)977/13-14(01) -- Paper on Copyright (Amendment) Bill 2014 prepared by the Legislative Council Secretariat (Background brief)
- LC Paper No. CB(4)11/14-15(01) -- Administration's paper on criminal cases in copyright infringement
- LC Paper No. CB(4)11/14-15(02) -- Administration's paper on copyright cases illustrating fairness assessment
- LC Paper No. CB(4)100/14-15(01) -- Administration's paper on user-generated content

Discussion

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

Date of next meeting

3. The Chairman reminded members that the sixth meeting would be held on 1 December 2014 at 4:30 pm to continue discussion with the Administration.

III. Any other business

4. There being no other business, the meeting ended at 12:34 pm.

Council Business Division 4
Legislative Council Secretariat
15 December 2014

**Proceedings of the fifth meeting of
Bills Committee on Copyright (Amendment) Bill 2014
on Tuesday, 18 November 2014, at 10:45 am
in Conference Room 1 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
Agenda item I – Confirmation of minutes			
000700 – 000739	Chairman	Confirmation of minutes of meeting on 14 October 2014 (LC Paper No. CB(4)156/14-15).	
Agenda item II – Meeting with the Administration			
000740 – 001648	Chairman Administration	Briefing by the Administration on its response to the issues raised at the meeting on 14 October 2014 (LC Paper No. CB(4)153/14-15(02)).	
001649 – 001850	Chairman Ms Cyd HO Administration	Ms Cyd HO's enquiry and the Administration's response on the amount and substantiality of the portion dealt with in relation to the copyright work as a whole in order to qualify for the fair dealing exception for the purpose of quotation.	
001851 – 002355	Chairman Ms Claudia MO Administration	Ms Claudia MO's enquiry and the Administration's response on the requirement of making sufficient acknowledgement to the quotation if it was reasonably practicable to do so.	
002356 – 002830	Chairman Ms Cyd HO Administration	Ms Cyd HO's enquiry and the Administration's response on whether the non-commercial sharing of copyright works without adding personal comments would qualify for the fair dealing exception for the purpose of quotation.	
002831 – 003329	Chairman Mr YIU Si-wing Administration	Mr YIU Si-wing's follow up enquiry and the Administration's response on the requirement of making sufficient acknowledgement to the quotation if it was reasonably practicable to do so.	
003330 – 004535	Chairman Ms Claudia MO Mr YIU Si-wing Administration	Ms Claudia MO's enquiry and the Administration's response on whether the use of a written record, an audio or video recording of a meeting for criticism, review, quotation and reporting and commenting on current events would qualify for exception from civil and criminal liabilities if the use was of great public interest. Mr YIU Si-wing's enquiry and the Administration's response on whether the use of a secretly recorded audio or video clip of great public interest would qualify for exception from civil and criminal	

Time marker	Speaker	Subject(s)	Action required
		liabilities if the use was for the purpose of quotation, and it was not reasonably practicable to make sufficient acknowledgement to the quotation.	
004536– 010110	Chairman Ms CHAN Yuen-han Administration	Ms CHAN Yuen-han's enquiry and the Administration's response on the need to allay netizens' concerns about inadequate protection offered by the copyright exceptions.	
010111– 012530	Chairman Mr WONG Yuk-man Administration	Mr WONG Yuk-man's enquiry and the Administration's response on application of the notice and takedown mechanism and the safe harbour provisions, as well as the need to strike a balance between copyright protection and free flow of information.	
012531 – 013055	Chairman Mr MA Fung-kwok Administration	Mr MA Fung-kwok's enquiry and the Administration's response on the civil and criminal liabilities of the online service providers under the safe harbour provisions.	
013056 – 014135	Chairman Mr CHAN Chi-chuen Administration	<p>Mr CHAN Chi-chuen's enquiry and the Administration's response on whether the inclusion of a non-exhaustive list of relevant factors in the new fair dealing exceptions would restrict the court's discretion in assessment.</p> <p>Mr CHAN Chi-chuen's enquiry and the Administration's response on the amount and substantiality of the portion dealt with in relation to the copyright work as a whole in order to qualify for the fair dealing exception for the purpose of quotation.</p>	
014136 – 014820	Chairman Mr SIN Chung-kai Mr WONG Yuk-man Ms Cyd HO Administration	Discussion on the possibility of introducing copyright exception for non-commercial user-generated content in Hong Kong.	
014821 – 015043	Chairman Mr MA Fung-kwok	Mr MA Fung-kwok's enquiry and the Administration's response on the possibility of introducing amendments to regulate online piracy through the use of streaming TV boxes.	