

立法會
Legislative Council

LC Paper No. CB(4)916/14-15
(These minutes have been seen
by the Administration)

Ref : CB4/PL/ITB/1

Panel on Information Technology and Broadcasting

Minutes of meeting
held on Monday, 9 March 2015, at 2:30 pm
in Conference Room 3 of the Legislative Council Complex

Members present : Dr Hon Elizabeth QUAT, JP (Chairman)
Ir Dr Hon LO Wai-kwok, BBS, MH, JP (Deputy Chairman)
Hon Emily LAU Wai-hing, JP
Hon WONG Ting-kwong, SBS, JP
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Hon Mrs Regina IP LAU Suk-yeet, GBS, JP
Hon Paul TSE Wai-chun, JP
Hon LEUNG Kwok-hung
Hon WONG Yuk-man
Hon Claudia MO
Hon Steven HO Chun-yin
Hon YIU Si-wing
Hon Charles Peter MOK, JP
Hon CHAN Chi-chuen
Hon SIN Chung-kai, SBS, JP
Dr Hon CHIANG Lai-wan, JP

Members absent : Hon TAM Yiu-chung, GBS, JP
Hon Ronny TONG Ka-wah, SC
Hon Cyd HO Sau-lan, JP
Hon NG Leung-sing, SBS, JP
Hon MA Fung-kwok, SBS, JP
Hon Christopher CHEUNG Wah-fung, SBS, JP
Hon Christopher CHUNG Shu-kun, BBS, MH, JP

**Public officers
attending**

: Agenda item IV

Commerce and Economic Development Bureau

Miss Susie HO, JP
Permanent Secretary for Commerce and Economic
Development (Communications and Technology)

Mr Joe WONG, JP
Deputy Secretary for Commerce and Economic
Development (Communications and Technology)

Mr Ivanhoe CHANG
Principal Assistant Secretary for Commerce and
Economic Development (Communications and
Technology)B

Mr Jerry LIU
Head of Create Hong Kong

Mr Wellington FUNG
Assistant Head of Create Hong Kong

Agenda item V

Commerce and Economic Development Bureau

Mr Godfrey LEUNG, JP
Under Secretary for Commerce and Economic
Development

Mr Edward TO
Principal Assistant Secretary for Commerce and
Economic Development (Communications and
Technology)A

Office for Film, Newspaper and Article
Administration

Mr Eric CHAN
Assistant Director
(Film, Newspaper and Article Administration)

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

Staff in attendance : Mr Joey LO
Senior Council Secretary (4)3

Ms Anki NG
Council Secretary (4)3

Action

I. Confirmation of minutes of meeting

(LC Paper No. CB(4)565/14-15 -- Minutes of meeting held on
12 January 2015)

The minutes of the meeting held on 12 January 2015 were confirmed.

II. Information papers issued since the last meeting

(LC Paper No. CB(4)555/14-15(01) -- "Guide to Filming in Hong
Kong 2015/2016" provided by
the Film Services Office under
Create Hong Kong

LC Paper No. CB(4)594/14-15(01) -- Letter from Hon Charles Peter
MOK dated 3 March 2015 on
issues relating to the
development of the innovation
and technology industries in
Hong Kong (Chinese version
only))

2. Members noted that the above papers had been issued for the Panel's
information.

III. Date of next meeting and items for discussion

(LC Paper No. CB(4)590/14-15(01) -- List of outstanding items for
discussion

LC Paper No. CB(4)590/14-15(02) -- List of follow-up actions)

Regular meeting on 13 April 2015

3. Members noted that the next regular Panel meeting would be held on Monday, 13 April 2015 at 2:30 pm to discuss the following items:

- (a) Progress update on the introduction of Customer Complaint Settlement Scheme; and
- (b) Progress report on digital inclusion.

Issue raised by Mr Charles Peter MOK

4. Noting the appointment of Mr Nicholas YANG as Advisor to the Chief Executive on Innovation and Technology and Chairman of the Advisory Committee on Innovation and Technology to be formed by reorganizing the existing Steering Committee on Innovation and Technology, Mr Charles Peter MOK proposed that the Panel should invite Mr YANG to brief members on his vision and work plan for the development of innovation and technology in Hong Kong.

5. Mr SIN Chung-kai agreed to invite Mr YANG to brief the Panel on his vision for innovation and technology, and said that there were precedent cases that Legislative Council committees had invited the Chairmen of advisory bodies to brief them on policy issues. Mr CHAN Chi-chuen said that he did not object to Mr MOK's proposal.

6. Dr CHIANG Lai-wan said that she was not aware of any precedent in this regard. Mr YIU Si-wing and Mr WONG Yuk-man said that as Mr YANG was only the Chairman-designate of one of the Government's many advisory bodies, it would not be appropriate for the Panel to invite him to give a briefing on his vision and strategy for innovation and technology. Mr HO Chun-yin and Ir Dr LO Wai-kwok said that it might be too early to invite Mr YANG who had just been appointed as the Chairman of the Advisory Committee on Innovation and Technology to brief the Panel. The Chairman suggested and members agreed to keep in view the matter pending further developments relating to the Advisory Committee on Innovation and Technology.

IV. Funding support for the Film Development Fund

(LC Paper No. CB(4)590/14-15(03) -- Administration's paper on funding support for the Film Development Fund

LC Paper No. CB(4)590/14-15(04) -- Paper on the Film Development Fund in supporting the development of film industry prepared by the Legislative Council Secretariat (Updated background brief)

LC Paper No. CB(4)595/14-15(01) -- Administration's paper on funding support for the Film Development Fund (power-point presentation material)) (Chinese version only) (tabled at the meeting and subsequently issued via email on 10 March 2015)

7. The Chairman reminded members on the requirements of Rule 83A and Rule 84 of the Rules of Procedure of the Legislative Council on disclosure of direct or indirect pecuniary interests relating to the funding proposal under discussion at the meeting before they spoke on the item.

Briefing by the Administration

8. At the invitation of the Chairman, Permanent Secretary for Commerce and Economic Development (Communications and Technology) ("PSCED(CT)") briefed members on the proposal to inject \$200 million into the Film Development Fund ("FDF") to promote the long-term and healthy development of the film industry, including enhancement of the operation of the Film Production Financing Scheme ("FPFS") and the introduction of the Film Production Grant Scheme ("FPGS"). Head of Create Hong Kong ("Head of CreateHK") then gave a powerpoint presentation on the review on FDF, the implementation of the First Feature Film Initiative ("FFFI") and other film-related projects. Details of the briefing and presentation were set out in the papers provided by the Administration (LC Papers Nos. CB(4)590/14-15(03) and CB(4)595/14-15(01)).

Discussion

Effectiveness of film supporting schemes

9. Mr WONG Yuk-man expressed support for the proposed measures to promote the development of the film industry but he also expressed concern about foreseeable difficulties in the enhancement of FPFS and the implementation of FPGS. In view that some film productions supported by FDF turned out to have low box office receipts, the Administration should review the reasons for the low return. He also urged the Administration to consider implementing measures to increase the effectiveness of the film supporting schemes.

10. Dr CHIANG Lai-wan expressed support for the funding proposal for FDF and enquired whether the additional amount injected into FDF was adequate. She also enquired about details of the Government's co-financing support to the film industry. Head of CreateHK advised that since 2007, FDF had co-financed 30 film production projects with approved funding of \$82.6 million, out of which 19 film projects were theatrically released and the Government had received a return of about 28% from the distribution of revenue. 11 of these film projects were considered satisfactory in terms of commercial performance for small-to-medium budget film productions. As such, FDF had contributed to the steady supply of small-to-medium budget movies since 2009 whereby the revenue was shared between the film production teams and the Government in accordance with the production finance agreements. The Administration would enhance the existing mechanism for financing small-to-medium film productions under FPFS by raising the upper limit of the production budget of a film project from \$15 million to \$25 million.

11. Mr CHAN Chi-chuen opined that box office receipts might not be used as a performance indicator to assess the effectiveness of FDF as films with potential high box office receipts would have already attracted commercial investors. He enquired whether FDF would be divided into different categories for supporting different types of films. Head of CreateHK advised that the new FPGS would support different types of film projects including feature-length drama, documentaries and animation films. Under FPGS, a grant at 20% of the approved production budget or of actual production cost, whichever was the lower, and capped at \$2 million per film project would be provided to subsidize low-budget film productions with production budget not exceeding \$10 million per film.

12. Mr Paul TSE referred to Annex 2 to the Administration's paper (LC Paper No. CB(4)590/14-15(03)) relating to the Government's co-financing support to film projects. At the request of Mr TSE for supplementary information on films listed in Annex 2, Head of CreateHK agreed to provide the box office receipts for films which had been theatrically released and the Government's share in the distribution of revenue.

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13. Noting that FDF provided subsidies ranging from \$40,000 to \$1 million per Hong Kong movie for participation in international film competitions or exhibition, Mr Paul TSE enquired about the reasons for providing such wide range of subsidies and the criteria for determining the amount of subsidy provided to each movie. Head of CreateHK advised that the subsidies were divided into three categories, with the maximum amount of subsidy being set at \$1 million which were provided to movies receiving Oscar Award nominations. The other two categories included movies being

nominated for Festival de Cannes Awards, Berlin International Film Festival Awards and Venice International Film Festival Awards. The amount of subsidies provided depended on the scale of the film festival for which the movie was nominated. The subsidies, which were provided on a reimbursement basis, covered mainly public relations and promotion expenses, and travelling and accommodation expenses for production crew and cast. Dr CHIANG Lai-wan urged the Administration to support local movies which were nominated for international film festival awards.

Amount of additional funding

14. Mr YIU Si-wing informed the meeting that Mr MA Fung-kwok was unable to attend the meeting and he would raise enquiries on behalf of Mr MA. Mr YIU said that Mr MA expressed support for the funding proposal for FDF. Given the relatively low level of film production activities recently carried out in Hong Kong and the keen competition among neighbouring Asian countries, continued support by the Government for local film production was necessary.

15. In response to Mr MA Fung-kwok's enquiry about the reason(s) for setting the amount of additional funding at \$200 million for FDF and follow up measures to be taken upon the exhaustion of the fund, PSCED(CT) advised that taking into account the past spending pattern of FDF and the funding requirements for taking forward the proposed measures, the additional funding of \$200 million was estimated to cover support from mid-2015 to 2020, an approximate five-year term with an average spending of \$40 million per year. A review on the film supporting schemes was intended to be conducted after two years to assess their effectiveness. Mr YIU Si-wing urged the Administration to make use of existing resources, such as the Shaw Studio which was a graded historic building, as film shooting and production sites to facilitate local film production.

Changes in film market and consumer interests

16. Mr WONG Ting-kwong expressed support for the funding proposal for FDF. Noting the changes in the film market where audiences had turned to watch movies on digital video discs, Mr WONG urged the Administration to review the mode of support provided to the film industry, assistance provided to cinemas in their operation against high rental and measures to promote film appreciation among audiences. Dr LO Wai-kwok shared a similar view and enquired about measures taken by the Administration to develop the film market.

17. PSCED(CT) advised that as film producers were generally less inclined to take risks for small-budget film productions because of their lack of commercial elements, the Administration would introduce FPGS to provide

a grant to subsidize small-budget film productions. This would reduce film producers' uncertainty when investing in less proven film projects and to encourage more commercial investment in such movies. To develop the film market, a host of support measures such as participating in trade fairs to promote Hong Kong's film industry and opening up the Mainland and South East Asia market for Hong Kong films had been introduced. In the past year, CreateHK continued to promote the development of the film sector in consultation with the Film Development Council ("FDC") in accordance with the four-pronged strategy, i.e. encouraging more local film productions, nurturing production talent, promoting film appreciation among students and young people to build up audiences, and showcasing and promoting the brand of "Hong Kong Films".

18. Mr SIN Chung-kai expressed support for the funding proposal for FDF. He enquired about measures taken by the Administration to ensure that local cultural elements were included in the film projects co-financed by FDF and to support the local film industry. PSCED(CT) advised that the film projects funded by FPFS had no requirement for content features but many of such film projects had included elements of local culture. Head of CreateHK supplemented that under the FPGS, the grant covered, among others, salary cost of the production crew who were Hong Kong permanent residents. One of the objectives of FPGS was to create nurturing opportunities for new talents in the production and post-production sectors of the local film industry.

Assessment criteria for Film Production Grant Scheme

19. In response to Mr WONG Yuk-man's enquiry about the assessment criteria for FPGS, Head of CreateHK advised that similar to the requirements for FFFI, FPGS would be provided to film projects selected through a competition on screenplay and production proposals. An assessment panel comprising representatives of FDC and veteran members of the film industry would select the winning teams. The selection would be based on a marking scheme upon which the teams would be assessed. The scheme would be implemented on a pilot basis for two years. It was anticipated that three winning teams would be selected in each quarter and a maximum of 12 teams would be selected each year.

Nurturing film talents and location filming

20. Mr WONG Ting-kwong enquired whether there was adequate support provided to nurture young production talents and the measures taken by the Administration in this regard. Head of CreateHK advised that FDF had provided funding support to various worthwhile film-related projects that were conducive to nurturing production talent, such as the Film Professional Training Programme from 2010 to 2011, under which 113 trainees received a

nine-month intensive and hands-on training involving various disciplines of film production. About 80 graduates had subsequently taken up professional jobs in various fields of film production and post-production.

21. Mr YIU Si-wing enquired about the plan and resources allocated to facilitate location filming. Assistant Head of CreateHK advised that CreateHK had recommended filming locations to production crews and arranged for visits to the filming locations, liaised with the relevant government departments and assisted production crews to obtain necessary approvals or permits for location filming. In addition, CreateHK had also prepared information on government and private premises available for location filming and published reference materials on location filming in Hong Kong.

Summing up

22. The Chairman concluded that the Panel supported in principle the proposal to inject an additional \$200 million into FDF to further promote the development of the film industry.

V. Review of the Control of Obscene and Indecent Articles Ordinance

(File Ref.: CTB/A 235-5/1(C) Pt.1 -- Legislative Council Brief on review of the Control of Obscene and Indecent Articles Ordinance issued by the Commerce and Economic Development Bureau in February 2015

LC Paper No. CB(4)590/14-15(05) -- Paper on the review of the Control of Obscene and Indecent Articles Ordinance prepared by the Legislative Council Secretariat (Updated background brief)

23. At the invitation of the Chairman, Under Secretary for Commerce and Economic Development ("USCED") briefed members on the progress of the Administration's review of the Control of Obscene and Indecent Articles Ordinance ("COIAO") (Cap. 390). Details of the briefing were set out in the paper provided by the Administration (File Ref: CTB/A 235-5/1(C) Pt.1).

Discussion

Abolishing the administrative classification system

24. Mr SIN Chung-kai agreed with the proposed abolition of the administrative classification function of the Obscene Articles Tribunal ("OAT") while leaving the OAT to only deal with judicial determination on whether an article was obscene or indecent upon referral by the court or magistrate concerned in civil or criminal proceedings. However, he also expressed concern that the publication industry would be deprived of a classification avenue before publication if the administrative classification function were to be abolished. Mr CHAN Chi-chuen expressed a similar concern that publishers would face greater risk of being prosecuted for articles that were likely to be indecent or obscene after the abolition of the classification avenue.

25. USCED advised that the Administration considered that abolishing the administrative classification function of the OAT would avoid concerns about the Government being perceived as attempting to censor freedom of expression and publication, as only the Court, but not the Government, would be involved in the determination of articles in future. Following the abolition of the administrative classification function of the OAT, the Judiciary would no longer be charged with the management of the existing repository. The Administration therefore proposed to establish a new repository under the Office for Film, Newspaper and Article Administration ("OFNAA") to replace the existing repository under the Judiciary. Members of the public (including the publishing industry) might apply to OFNAA to inspect the indecent articles seized by OFNAA for convicted cases under the COIAO. Given the significant decrease in demand for administrative classification in recent years, the Administration was of the view that since most publishers were already familiar with the prevailing adjudication standards adopted by the OAT, they would not face a higher risk of prosecution after the abolition of the administrative classification function.

Adjudicator system

26. Noting the proposed increase in the minimum number of adjudicators at each OAT hearing from two to four, Mr YIU Si-wing enquired how the OAT would resolve difference in opinion amongst adjudicators at OAT hearings. Mr YIU also enquired if the same group of adjudicators would attend multiple hearings within the same period.

27. USCED advised that to ensure greater consistency of adjudication standards and efficiency of the OAT, the Judiciary would enhance briefings for adjudicators who had been selected for article determination work. USCED added that the hearings of the OAT were attended by different groups of

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adjudicators. In 2013, only 26% of the adjudicators had attended two hearings, while only 2% of them had attended three. USCED agreed to seek information from the Judiciary on how the OAT would resolve possible difference in opinions amongst the four adjudicators at future OAT hearings. At the request of the Chairman, USCED agreed to relay Mr YIU's enquiry about the details of the future system to the Judiciary with a view to providing supplementary information in this respect.

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28. Noting that there had been precedent cases where work of art were classified as indecent articles by the OAT, Mr LEUNG Kwok-hung opined that the OAT adjudicators should be drawn from a cross-section of the community to ensure its representativeness and avoid such controversies in future. At Mr LEUNG's request, USCED agreed to relay the request for information (such as age, gender, education and occupation) of the profiles of the OAT adjudicators to the Judiciary and ascertain if such information was available.

29. Noting the Administration's proposal to increase the total number of adjudicators from about 500 to a maximum of 1 500 on an incremental basis to allow more people to participate in the adjudication process, Mr Paul TSE opined that the existing self-nomination system of OAT adjudicators would inevitably lead to bias, as people who nominated themselves were likely to adopt strict moral standards with regard to obscenity and indecency. To enhance the diversity of members of the OAT, he suggested that the Judiciary should consider reforming the OAT system from one based on self-nomination to one based on nomination by the authorities. He also enquired about the number of prosecutions taken under the COIAO in the past few years.

30. USCED advised that the number of COIAO prosecution cases by OFNAA had decreased in recent years. In 2011, a total of 110 summonses were issued by OFNAA. In 2012, there were 84. In both 2013 and 2014, there were only 43. USCED added that the self-nomination system had worked generally well over the years with proven record, and the adjudicators were drawn from all walks of life in the community. Nevertheless, he would relay Mr TSE's suggestion to the Judiciary.

31. Mr WONG Yuk-man opined that under the existing self-nomination system, the panel of adjudicators would not be representative of the community standard, and the decisions of the OAT would be left to a limited group of adjudicators who did not fully reflect the prevailing community standard. He also proposed that the term of appointment of the adjudicators should be shortened from the existing 12 years to six years to speed up turnover and increase the representativeness of the OAT. USCED agreed to relay Mr WONG's views to the Judiciary for consideration.

32. In response to the Chairman's enquiry about the rationale for not replacing the current adjudicator system with a jury system, USCED advised that the proposal would have several major implications. Firstly, it would fundamentally change the long-established practice and culture of the jury system by extending its scope from serious crimes or deaths during custody to cover obscene and indecent articles, which would have implications including a heavy drain on judicial resources and sufficiency of eligible jurors. Secondly, as compared with the present adjudication system, some jurors, who would be invited to OAT hearings, might not like to perform OAT functions which involve examination of potentially obscene and indecent articles. Thirdly, it would significantly lengthen OAT hearings and lower the OAT's efficiency, as extra time would be needed for the jurors who were likely to have little previous experience in OAT hearings to be briefed in detail on each step, for them to discuss the case to make a verdict, and for the presiding magistrate to sum up and give directions on law. As such, the number of jurors to be required was likely to increase. Some quarters of the community might be concerned that this would lower the productivity and efficiency of the society.

Internet co-regulation

33. Noting the Administration's proposal to establish a liaison group consisting of information technology professionals, representatives of Internet Service Providers ("ISPs") and government representatives to review and enhance the existing co-regulatory framework and update the existing Code of Practice for the control of indecent and obscene articles on the Internet, Mr Charles Peter MOK opined that apart from industry representatives, the standing liaison group should also comprise representatives of Internet users. He also suggested that the Administration should introduce a safe harbour mechanism in the COIAO to protect the interests of the ISPs, with reference to the one proposed in the Copyright (Amendments) Bill 2014 to amend the Copyright Ordinance (Cap. 528). USCED advised that the Administration would consider Mr MOK's views and suggestions during the review of the co-regulatory framework.

VI. Any other business

34. There being no other business, the meeting ended at 4:25 pm.