

**立法會**  
**Legislative Council**

LC Paper No. CB(1) 2103/99-00  
(These minutes have been seen  
by the Administration and cleared by  
the Chairman)

Ref : CB1/BC/7/99/2

**Bills Committee on Intellectual Property  
(Miscellaneous Amendments) Bill 2000**

**Minutes of third meeting  
held on Wednesday, 14 June 2000, at 10:45 am  
in Conference Room B of the Legislative Council Building**

**Members present** : Hon SIN Chung-kai (Chairman)  
Hon MA Fung-kwok  
Hon HUI Cheung-ching  
Hon YEUNG Yiu-chung

**Member absent** : Hon Ronald ARCULLI, JP

**Public Officers attending** : Mr Kenneth MAK  
Deputy Secretary for Trade and Industry

Mr Philip CHAN  
Principal Assistant Secretary for Trade and Industry

Mr Peter CHEUNG  
Deputy Director, Intellectual Property Department

Miss Pancy FUNG  
Assistant Director, Intellectual Property Department

Mr Johann WONG  
Assistant Secretary for Trade and Industry

Mr Jeffrey E GUNTER  
Senior Assistant Law Draftsman

Mr CHEUNG Wing-leung  
Senior Government Counsel

Mr Y K POON  
Assistant Commissioner of Customs & Excise

**Clerk in attendance :** Mrs Mary TANG  
Chief Assistant Secretary (1)6

**Staff in attendance :** Miss Anita HO  
Assistant Legal Adviser 2

Ms Sarah YUEN  
Senior Assistant Secretary (1)4

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**I Meeting with the Administration**  
(LC Paper Nos. CB(1)1833 and 1841/99-00)

The Chairman drew members' attention to the Administration's note on the Committee Stage amendments (CSAs) to the Bill to be moved by the Administration which was faxed to members in the afternoon of the day before the meeting.

2. The Deputy Secretary for Trade and Industry (DSTI) apologized for the delay in submitting the note and highlighted two new CSAs to be moved by the Administration in response to members' requests at the second meeting of the Bills Committee held on 9 June 2000, namely, the insertion of a defence of "reasonable excuse" for the offence of unauthorized possession of video recording equipment in a place of public entertainment under the proposed section 31C(1) in clause 25, and the CSA to the proposed section 31E in clause 25 to provide for a statutory requirement for the display of warning notices by the manager of a place of public entertainment. In this regard, the definition of the "manager" would also be enhanced to include the owner or the licensee of the place of public entertainment so that they might also be held responsible for not displaying the prescribed warning notices.

3. In response to Mr MA Fung-kwok, the Principal Assistant Secretary for Trade and Industry (PAS/TI) advised that the details of the requirement of warning signs would be prescribed by the Secretary for Commerce and Industry by regulation under section 38 of the Prevention of Copyright Piracy Ordinance (Cap. 544). DSTI supplemented that to ensure the requirement would be practicable, the Administration would consult concerned parties including cinema and concert hall operators on the details of the warning notices before enacting the relevant subsidiary legislation.

4. Mr MA Fung-kwok opined that the definition of "manager" should be enhanced by including the licensee only and not the owner because the owner of the relevant premises might not know what business was being conducted in his property. In response, the Senior Assistant Law Draftsman (SALD) explained that according to the Places of Public Entertainment Ordinance (Cap. 172), the expression "the owner"

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was not intended to be necessarily the owner of the premises but it could be interpreted as the person who used and operated the place of public entertainment. Hence the inclusion of the owner in the definition of “manager” to ensure that apart from persons operating places of public entertainment with a licence (the licensee in this case), those operating without a licence would also be covered by the requirement of warning signs. In consideration of Mr MA’s concern however, SALD said that “the operator” might be a better term than “the owner” in achieving the purpose of covering all persons with the responsibility for running the business concerned, and agreed to consider including the operator instead of the owner in the definition of the “manager”.

Admin

*(Post-meeting note: The Administration had subsequently amended section 31E(5) of clause 25 to the effect that a “manager” would include any person who held or was required to hold a licence granted under the Places of Public Entertainment Ordinance (Cap. 172) in relation to the place of public entertainment.)*

5. The Chairman showed appreciation for the Administration’s positive response to members’ proposals on the CSAs to be moved to the Bill and said such should facilitate enforcement of the proposed prohibition of unauthorized possession of video recording equipment. DSTI also thanked members for expediting the scrutiny of the Bill.

6. At the Chairman’s invitation, PAS/TI briefed members on the draft CSAs.

7. The Assistant Legal Advisor 2 (ALA2) highlighted the discrepancy between the English and Chinese version of the newly proposed section 31E(5), and pointed out that the order of clauses 25 (b) and (c) as they appeared in the English version was different from that in the Chinese version. In response, the Senior Government Counsel agreed to re-examine the clauses and ensure that the English and Chinese versions would tally.

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8. Members endorsed the above proposed CSAs on condition that they were confirmed to be in order by ALA2.

## **II Any other business**

9. Members agreed that the Chairman should make a verbal report of the Bills Committee’s deliberations to the House Committee at its meeting on 16 June 2000, followed by a written report on 23 June 2000.

Clerk

10. The meeting ended at 11:15 a.m.

Legislative Council Secretariat  
10 October 2000