

立法會
Legislative Council

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(These minutes have been
seen by the Administration
and cleared with the Chairman)

Ref : CB2/BC/18/99

Bills Committee on Entertainment Special Effects Bill

Minutes of the meeting
held on Friday, 19 May 2000 at 10:45 am
in Conference Room A of the Legislative Council Building

- Members Present** : Hon Howard YOUNG, JP (Chairman)
Hon David CHU Yu-lin
Hon Cyd HO Sau-lan
Hon MA Fung-kwok
Hon James TO Kun-sun
Hon Andrew WONG Wang-fat, JP
Hon Timothy FOK Tsun-ting, SBS, JP
- Member Absent** : Hon YEUNG Yiu-chung
- Public Officers Attending** : Mr Alan SIU
Deputy Secretary for Information Technology and
Broadcasting (2)
- Mr Esmond LEE
Acting Commissioner for Television and Entertainment
Licensing
- Miss Adeline WONG
Principal Assistant Secretary for Information Technology
and Broadcasting (B)
- Miss Miranda NG
Senior Assistant Law Draftsman

Action

Action

Mr John MAK
Senior Engineer (Special Effects)
Television and Entertainment Licensing Authority

Deputations by : Movie Producers and Distributors Association of Hong
Invitation Kong Limited

Mr Tony SHU Tat-ming
Executive Secretary

Hong Kong Kowloon & New Territories Motion Picture
Industry Association Ltd.

Mr TSUNG Wan-chi
Chief Executive

Mr Bruce LAW
Stunt Director

Mr Tassilo BAUR
Stunt Operator

Mr Arthur LAU
Stunt Operator

Pyromagic Productions Ltd.

Mr Wilson MAO
Chief Executive Officer

Miss Mitzi MATSUMOTO
PR & Marketing

Hong Kong Film Directors' Guild

Mr CHEUNG Tung-joe
Permanent Honorary President

Mr TUNG Wai
Executive Committee Member

Clerk in : Ms Doris CHAN
Attendance Chief Assistant Secretary (2) 4

Action

Staff in Attendance : Miss Anita HO
Assistant Legal Adviser 2

Mr Stanley MA
Senior Assistant Secretary (2) 6

I. Membership of the Bills Committee

The Chairman informed the meeting that Mr Bernard CHAN had resigned his membership of the Bills Committee with effect from 15 May 2000.

II. Meeting with deputations and the Administration

(LC Paper Nos. CB(2)2018/99-00(01) - (05) and CB(2)2030/99-00(01) - (03))

2. The Chairman welcomed representatives of the film and entertainment industry to the meeting. At the invitation of the Chairman, the representatives commented on the Bill as follows -

Movie Producers and Distributors Association of Hong Kong Limited (MPDA)
(LC Paper No. CB(2)2030/99-00(01))

3. Mr Tony SHU Tat-ming introduced the submission of the MPDA which expressed support for the Bill. He referred to paragraph 24 of the Legislative Council Brief which set out the financial implications and pointed out that as the MPDA comprised mainly movie investors, they were concerned about the fees to be charged on a full-cost recovery basis. He hoped that Members would consider the matter and provide some guidelines to the Administration to ensure that the fees would be reasonable. He also suggested that modified firearms for filming purposes should be regulated under the Bill instead of the Firearms and Ammunition Ordinance.

The Hong Kong Kowloon and New Territories Motion Picture Industry Association Limited (MPIA)
(LC Paper Nos. CB(2)2030/99-00(02) and (03))

4. Mr TSUNG Wan-chi said that the MPIA supported the proposals of the Bill in principle as the film industry had been pressing for a new regulatory system to meet the operational needs of the industry. He pointed out that the industry's main concern was whether the proposals could be implemented in accordance with the spirit of the Bill which was to facilitate the film and entertainment industry.

Action

5. Mr Bruce LAW said that to ensure effective and smooth implementation of the proposals in the Bill, the procedures for applying for the licences and permits for storage, conveyance and discharge of special effects materials should be simple and easy to follow. He would like to know how simplified the procedures would be and, in particular, whether a sketch would be required for every scene. He considered that licensed special effects operators could be trusted to carry out their work without the need for producing detailed sketches.

6. Mr Tassilo BAUR emphasized that a practical, pragmatic and user-friendly approach must be adopted in implementing the proposals. He suggested that the Administration should establish an appropriate mechanism to monitor the implementation of the proposals of the Bill and to solve any problems arising proactively.

7. Mr Arthur LAU urged the Administration to provide clear guidelines on the requirements and application procedures for special effects operators as soon as practicable. He pointed out that since the regulation of the production of special effects in films, television programmes and theatrical performances only started in 1993, operators in the film industry had been using their own methods for years before that. While they would try their best to comply with the new requirements, he would like to know the consequence of non-compliance.

Pyromagic Productions Limited

8. Mr Wilson MAO said that he wished to raise three concerns in relation to discharge of pyrotechnic special effects materials for theatrical performances. He hoped that after the enactment of the Bill, pyrotechnic materials would be allowed to be used in private and commercial functions and not be limited to public entertainment. He would like to know whether the requirement of separating distance of 4.5 metres would be reviewed as it was often difficult to meet the requirement. He pointed out that bullet hits formed part of pyrotechnic special effects and should be allowed in theatrical performances. He also would like to know whether there would be a monitoring mechanism to safeguard the safety and legitimacy of the special effects operators.

Hong Kong Film Directors' Guild (HKFDG)

9. Mr CHEUNG Tung-joe said that HKFDG supported the Bill in principle as it was what the film industry had been pressing for. He emphasized that to meet the needs of the industry, there should be flexibility in implementation of the proposals. He suggested that the Administration should consult the film industry before introducing the necessary subsidiary legislation. He also held the view that modified firearms for filming purposes should be included under the Bill.

Action

Questions raised by members

10. The Chairman said that in response to concerns raised by members at the last meeting, the Administration had provided information papers on the requirements for applications for a licence or permit under the Bill and the fees to be charged. As the papers would be discussed in the second half of the meeting, he invited the deputations to stay for the discussion.

11. Mr MA Fung-kwok invited the deputations to give their views on the operational problems which might arise from compliance with the provisions of the Bill.

12. Mr TUNG Wai of the HKFDG expressed concern as to whether much information had to be furnished in an application for a discharge permit, in particular, whether there would be a need to provide sketches for each special effects scene. He pointed out that for location shootings, changes were often necessary in the light of situations and it was not always possible to follow the drawings prepared in advance.

13. In response to the Chairman's question about the practice in Hollywood, Mr Tassilo BAUR of the MPIA said that in his experience in the Los Angeles area, an application for a discharge permit could be made over the telephone and the permit would be faxed to the applicant. It was much more flexible and user-friendly in the realization that even if a drawing was provided, once the crew got to the location, what was drawn might not be practical or even safe anymore. He pointed out that the Californian local authorities understood that a drawing did not represent anything very useful in most cases, especially in relation to simple scenes, and had therefore adopted a more flexible approach.

14. Referring to Mr BAUR's submission in which he expressed concern that the Television and Entertainment Licensing Authority (TELA) might lack the technical expertise and flexibility to react quickly, Mr MA Fung-kwok asked Mr BAUR about the situation in the United States.

15. Mr Tassilo BAUR said that from what he had seen, the system relied on a high level of expertise, both on the part of the operator and on the part of the authority issuing the permit, and a high degree of familiarity with motion picture techniques and production needs. In response to a further question from Mr MA regarding "numerous unresolved technical issues" referred to in his submission, Mr BAUR said that basically the system of special effects safety that they advocated relied very much on having the right tool for the job at a specific time. Each of the techniques usually relied on a specific set of materials. The movie industry needed timely and concrete answers to questions based on which informed decisions could be made. He emphasized that the technical basis was very important and it was essential that the various issues should be resolved proactively.

Action

16. Mr Timothy FOK Tsun-ting asked whether the new regulatory regime would help to attract overseas motion picture producers to conduct location filming in Hong Kong.

17. Mr Bruce LAW of the MPIA considered that it would. Mr Tony SHU Tat-ming of the MPDA added that many overseas filmmakers had asked the MPDA whether the local authorities concerned would provide assistance in filming of special effects scenes in Hong Kong. He shared the view that the enactment of the Bill would have a positive effect in attracting overseas film producers to Hong Kong.

18. Mr CHEUNG Tung-joe of the HKFDG expressed concern about the high cost of the pyrotechnic special effects materials imported from overseas suppliers/manufacturers and mentioned that he had received a note from a television action director highlighting such concerns. He considered that the licensing system should encourage more suppliers in order to allow competition and licensed special effects operators should be permitted to produce their own specific special effects materials/devices, having regard to the specific needs of the local entertainment industry and local safety requirements.

The Administration's responses

19. At the Chairman's invitation, Deputy Secretary for Information Technology and Broadcasting (2) (DS/ITB(2)) responded to some of the points raised as follows -

- (a) in designing the new regulatory system proposed under the Bill, reference had been made to the system and practice in Hollywood with modifications to meet the operational needs of the film and entertainment industry in Hong Kong;
- (b) the requirements and procedures for applications for a licence or permit under the Bill would be kept as simple as possible. There had been full consultation with the film industry before the procedures were drawn up. An information paper on the subject had been provided to the Bills Committee for discussion at the meeting;
- (c) although the licence and permit fees under the Bill would be set at a full-cost recovery basis, it should be noted that only the cost relating directly to the issuing of such licences and permits would be recovered. Other expenses such as that for monitoring the system, staff training and law enforcement would not be taken into account in the calculation. A paper setting out the proposed fees had been provided to the Bills Committee for discussion at the meeting. Compared with the present levels, there would be a significant reduction in the level of costs under the new system

Action

due to simplification of procedures;

- (d) modified firearms for filming purposes had already been dealt with under the Firearms and Ammunition Ordinance. As a decision had already been made, it would not be appropriate to go into the subject again in the present context; and
- (e) TELA would have the necessary expertise with staff possessing internationally recognized qualifications to implement the new regulatory system. During the process of developing the new regulatory framework and drafting the Bill in the past few years, TELA maintained communication with relevant experts in Hollywood to learn from their experience and expertise.

20. The Chairman referred to Mr CHEUNG Tung-joe's comments about local production of pyrotechnic special effects materials and asked the Administration whether this would be allowed under the Bill. Senior Engineer (Special Effects) (SE(SE)) said that self production of pyrotechnic special effects materials by the operators themselves could be a hazardous process. For this reason, the Authority would only accept materials approved by overseas countries but assembly of devices locally such as lifters using approved materials would be permitted. In response to a further question from the Chairman, SE(SE) explained that the production of pyrotechnic materials had to be carried out in a factory and safety factors had to be considered before such a factory could be approved. In view of the dense population in Hong Kong, the Administration did not consider it appropriate for such materials to be manufactured locally. However, should anyone wish to manufacture such materials in Hong Kong, he/she could apply for a manufacture licence under the Dangerous Goods Ordinance.

21. Miss Cyd HO wished to know whether statistics of injuries and deaths arising from past practice of local production and assembly of pyrotechnic special effect materials/devices were available. She also sought Mr BAUR's comments as to whether there was a fundamental safety problem with local production of such materials/devices and whether regulation for a safe environment could be made to enable the production of pyrotechnic special effects materials in Hong Kong to help reduce cost.

22. In response to Miss HO's first question, SE(SE) said that as far as he was aware, the requested casualty figures were not available. As to whether there was a fundamental safety problem with making one's own pyrotechnic device, Mr BAUR said that it depended entirely on what it was and how it was made and to some extent it was allowed in the Hollywood system. He pointed out that there were devices that had been in common use in Hong Kong for a long period of time that were an integral part of visual style of Hong Kong movies which was world famous. There was no factory which manufactured them and they had always been made here by individuals. He considered the matter

Action

one of the technical issues which had to be resolved.

23. Responding to questions from the Chairman and Miss Cyd HO, Mr TUNG Wai said that for the past 20 years or more all bullet hits were made locally. However, he agreed that there were some more sophisticated devices that could not be produced locally.

24. As regards whether a drawing would be required for every special effects scene, SE(SE) said that even for Hollywood, drawings were required for applications for permits. He added that for simple scenes, a clear description of the discharge procedures and the safety measures to be taken would suffice. However, for more complicated scenes, drawings would be necessary. In this connection, Mr BAUR said that he could not recall during his time of working under the Hollywood system ever having to fill out diagrams for movies at all.

25. In response to further comments from the representatives on the use and control of modified firearms for location filming, the Chairman explained that the issue of modified firearms had already been dealt with under the Firearms and Ammunition Ordinance and was outside the scope of the present Bill.

III. Matters arising from the last meeting

26. At the Chairman's invitation, DS/ITB(2) introduced the Administration's papers for the meeting.

Special Effects Materials List

(LC Paper Nos. CB(2)2018/99-00 (01))

27. DS/ITB(2) said that the paper set out the special effects materials which would be included in the Special Effects Materials List to be prescribed in the regulation to be made under the Bill. He pointed out that additions could be made to the list as necessary and bullet hits mentioned by the representatives earlier were included in the list as item 20. He emphasized that the list did not specify the countries of manufacture of the materials as the important point was that the materials had to be safe and able to satisfy international safety standards.

28. Miss Cyd HO asked whether a mechanism would be established to test samples of materials manufactured overseas or locally to determine whether they were safe before they could be approved for import or use. SE(SE) responded that in considering whether pyrotechnic special effects materials were safe for transport and use, TELA would take into account whether they were labelled and packaged in accordance with the United Nations (UN) standards and whether they had been approved for use in other places. He said that there was a list of organizations/countries approved by the UN as competent authorities to give UN classifications based on the labelling and

Action

package of the materials. As Hong Kong was not on the list, TELA could not give UN classifications to the materials but the materials could be sent overseas for assessment/classification. Assembly of devices in suitable venues by using approved materials would be permitted. DS/ITB(2) added that details of such would be set out in the guidelines to be issued.

29. MR BAUR pointed out that the UN standard that had been referred to was a transportation standard and not a use standard. To his knowledge, there was not a UN standard for what was or was not a safe bullet hit. It was important to realize that bullet hits and motion picture use of explosives were a very tiny slice of the giant world of explosives. The standards that were developed for transportation were aimed at a very broad range of explosive products. They were frequently derived from military standards and were very difficult to comply with. He pointed out that even in the United States, the government only applied what was relevant for the product concerned. He emphasized that it was a much more complex issue than having a ruler that the UN had made by which one could measure what was or was not a safe product. One of the unresolved technical issues mentioned in his submission was how to decide by a relevant standard what was and what was not a safe product.

30. The Chairman noted that this technical issue was a worldwide issue which could not be resolved by Hong Kong alone. In response to the Chairman's question as to whether the UN standard was a transportation standard, SE(SE) confirmed that it was. He explained that during the process of transportation, the materials had to be properly labelled and packaged for carriage in a vehicle or a ship and the same standard could more or less be used for storage of the materials. The Administration was aware of the limitations of the UN standard and would maintain, and make publicly available, a register of all pyrotechnic special effects materials that had been approved for use in Hong Kong. The register would also include other details such as the manufacturer, item description, classification, and restrictions of each of the materials listed. This register would facilitate the sourcing by local suppliers and special effects operators of pyrotechnic special effects materials from overseas suppliers/manufacturers and local suppliers.

Recommendations of the consultants and consultation with the industry

31. Mr MA Fung-kwok asked the Administration to what extent it had accepted the recommendations of the consultants in drafting the Bill. Acting Commissioner for Television and Entertainment Licensing (Atg. CTEL) explained that the Administration had appointed Mr Jim ALLEN, a retired Fire Marshal in California, as a consultant to advise on the establishment of a user-friendly, efficient and flexible regulatory system, having regard to the specific needs of the local industry and the Californian regulatory regime. The present Bill was based on the recommendations of Mr ALLEN with some modifications to suit the local situation. TELA had also engaged Mr Tassilo BAUR, a First Class Special Effects Operator from Hollywood, to conduct

Action

training courses for local special effects operators and to draw up guidelines and standards for the use of special effects materials in the production of special effects. The gas standards recommended by Mr BAUR had been seen by the Electrical and Mechanical Services Department and would be promulgated as codes of practice under the Bill.

32. Atg. CTEL assured the film and entertainment industry that under the new regulatory system, the procedures would be simplified and the information required would be kept to the minimum with due regard for public safety. He said that TELA had all along been in close consultation with the industry and would continue to maintain dialogue with the industry in the implementation of the new system.

Qualification and other requirements for application for special effects operator licence

(LC Paper No. CB(2)2018/99-00(02))

33. DS/ITB(2) briefly introduced the above paper which set out the requirements for the seven types of licences. Members had no comments on the paper.

Information to be furnished in an application for a licence or permit under the Bill

(LC Paper No. CB(2)2018/99-00(03))

34. DS/ITB(2) introduced the above paper which set out the information to be furnished by applicants. He pointed out that the information required was reasonable and not excessive.

35. Mr James TO referred to item 6 of Annex B regarding details of the discharge and asked whether the Administration would provide a set of guidelines to assist special effects operators in applying for discharge permits and conducting the discharge. DS/ITB(2) confirmed that the principle and requirements would be set out clearly in the guidelines and codes of practice to be provided to the industry.

36. As to the processing time for issue of discharge permits, DS/ITB(2) said that the Administration had given performance pledges of three working days for simple applications, six working days for more complicated applications and 12 working days for applications requiring consultation with other departments. As regards the requirement for a clear description of the special effects and the scripted action, DS/ITB(2) clarified that it would be dealt with flexibly and similar action scenes could be grouped together under one permit. SE(SE) supplemented that the main consideration was whether the materials would be discharged in a safe manner. Take bullet hits as an example, information on the distance between the actor and the bullet hit device, the direction the actor would take and whether his face would be in the path of the

Action

discharge device would be required.

37. Mr MA Fung-kwok expressed grave concern about the need for such detailed information to be provided. The Chairman and other members shared Mr MA's view that licensed special effects operators should have been trained to have the expertise and judgement to conduct safe discharge of pyrotechnic special effects materials in location filming. They considered that with a licensing system in place, the details should be left to the licensed operators who would be held responsible for the discharge and any mishap arising from such discharge.

38. Mr Tassilo BAUR pointed out that the Hong Kong system of filming was based on interaction and to some extent on improvisation. When people arrived at the scene, they improvised and that was what had given it a sense of liveliness that had taken the world by storm. He stressed that it was important not to take away this special characteristic of Hong Kong movies.

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39. The Chairman urged the Administration to review its requirements in view of the concerns expressed by members and the industry and to report at the next meeting. DS/ITB(2) agreed to consider members' views and would further consult the industry in preparing the codes of practices.

Licence and permit fees under the Bill
(LC Paper No. CB(2)2018/99-00(05))

40. The Chairman proposed to consider the above paper first as representatives of the industry had also asked questions on the subject. Discussion of the other two remaining papers would be deferred to the next meeting.

41. DS/ITB(2) briefly introduced the paper pointing out that a comparison between the proposed and present level of fees had been made. In most cases the level of fees was lower than the present level and in cases in which the fees were higher, the fees would cover more activities than previously or have a longer validity period.

42. Referring to Annex C of the paper, DS/ITB(2) said that the Administration proposed that the discharge permits issued would be valid for up to 24 hours. Under this proposed arrangement and based on the estimated number of permits/applications in a year, the permit fee was estimated to be \$500 for both Stream A and Stream B permits. However, if a Stream B discharge permit with a longer validity period was issued to cover multi performances as proposed by members at the last meeting, the number of permits to be issued would be considerably reduced resulting in a much higher fee for each permit. Hence the proposal of issuing permit with a longer validity period would only benefit productions extending over a longer period of time such as pop concerts, but would not work to the advantage of artistic

Action

productions such as ballet and drama which on average only required about three discharge permits for each production.

43. Miss Cyd HO considered that the Administration should work out separate permit fees for artistic performances but she would first consult the groups concerned to seek their views before following the matter up separately.

Subsidiary legislation

44. Miss Cyd HO asked the Administration whether it would let members have sight of the subsidiary legislation before the principal legislation was passed. DS/ITB(2) said that the subsidiary legislation was being prepared and would be submitted for members' consideration in October 2000.

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IV. Date of next meeting

45. The next meeting would be held on Wednesday, 24 May 2000 at 8:30 am.

46. The meeting ended at 1:00 pm.

Legislative Council Secretariat

6 September 2000