

立法會
Legislative Council

LC Paper No. CB(2)178/06-07

(These minutes have been
seen by the Administration)

Ref : CB2/BC/11/04

**Bills Committee on
Smoking (Public Health) (Amendment) Bill 2005**

**Minutes of the 55th meeting
held on Thursday, 28 September 2006 at 8:30 am
in Conference Room A of the Legislative Council Building**

Members present : Hon Andrew CHENG Kar-foo (Chairman)
Hon James TIEN Pei-chun, GBS, JP
Hon Abraham SHEK Lai-him, JP
Hon Tommy CHEUNG Yu-yan, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon Vincent FANG Kang, JP
Hon LI Kwok-ying, MH, JP
Hon Alan LEONG Kah-kit, SC
Dr Hon KWOK Ka-ki
Hon WONG Ting-kwong, BBS

Members absent : Hon Albert CHAN Wai-yip (Deputy Chairman)
Hon LEE Cheuk-yan
Hon Martin LEE Chu-ming, SC, JP
Hon Fred LI Wah-ming, JP
Hon Howard YOUNG, SBS, JP
Dr Hon YEUNG Sum
Hon Emily LAU Wai-hing, JP
Hon LI Fung-ying, BBS, JP
Dr Hon Joseph LEE Kok-long, JP
Hon LEUNG Kwok-hung
Hon Albert Jinghan CHENG
Hon KWONG Chi-kin

Public Officers attending : Mrs Ingrid YEUNG
Deputy Secretary for Health, Welfare and Food (Health)

Ms Julina CHAN
Principal Assistant Secretary for Health, Welfare and Food
(Health)

Dr T H LEUNG, JP
Deputy Director of Health

Dr Christine WONG
Senior Medical and Health Officer
Department of Health

Miss Shandy LIU
Senior Government Counsel
Department of Justice

Mr CHONG Ka-ning, Alan
Government Counsel
Department of Justice

Clerk in attendance : Ms Doris CHAN
Chief Council Secretary (2) 4

Staff in attendance : Miss Monna LAI
Assistant Legal Adviser 7

Miss Mary SO
Chief Council Secretary (2) 5

Miss Maggie CHIU
Legislative Assistant (2) 4

I. Meeting with the Administration
(LC Paper No. CB(2)3104/05-06(02))

The Bills Committee deliberated (Index of proceedings at **Annex**).

2. The Administration undertook to provide all outstanding Committee Stage amendments (CSAs) as well as the criteria for designation smoking areas in public pleasure grounds at the next meeting scheduled for 29 September 2006.

3. The Administration was requested to consider -

- (a) removing the word "other" referred to in new section (3)(b) of the Bill;

- (b) advising all registered trademark applicants of tobacco products the fact that the approval of their applications by the Registrar of Trade Mark did not make them immune from being prosecuted under new section 10(3); and
- (c) bringing the attention of the registered trademark holders of tobacco products about the legal risk they might face under the existing Trade Mark Ordinance and the implementation of new section 10(3) of the Bill.

4. At the request of the Bills Committee, the Administration agreed to convey to the Intellectual Property Department about the suggestion of actively taking step to revoke those registered trademarks of tobacco products which had not been used in Hong Kong for a prolonged period of time in accordance with legislation.

II. Any other business

5. The next meeting would be held on 29 September 2006 from 8:30 am to 12:30 pm.

6. There being no other business, the meeting ended at 10:25 am.

Council Business Division 2
Legislative Council Secretariat
24 October 2006

**Proceedings of the 55th meeting of the
Bills Committee on
Smoking (Public Health) (Amendment) Bill 2005
on Thursday, 28 September 2006 at 8:30 am
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject	Action required
000000 - 000418	Chairman	Opening remarks	
000419 - 001305	Admin	The Administration undertook to provide all outstanding Committee Stage amendments (CSAs) as well as the criteria for designation smoking areas in public pleasure grounds at the next meeting scheduled for 29 September 2006	✓ (Admin to provide the CSAs and the paper)
001306 - 003247	Admin Dr KWOK Ka-ki Mr Alan LEONG ALA7 Chairman	<u>Revised draft CSAs to clause 11 of the Bill</u> The Administration was requested to consider removing the word "other" referred to in new section (3)(b) of the Bill Reasons for specifying "harmful to health" under new section (3)(a) of the Bill and why there was no need to make clear in that section that an offence might be committed if any packaging of the tobacco product, retail container, wrapping and any label attached to or printed on the packaging or the product bore any term, descriptor, trademark, figurative or any other sign that created an erroneous impression that the product was less harmful to health than other tobacco products the packaging of which did not bear such term, descriptor, trademark, figurative or sign	✓ (Admin to provide the CSA)
003248 - 003907	Mr Vincent FANG Admin	Enforcement of new section 10(3) by Customs and Excise Department Grace period for parties concerned to comply with new section 10(3)	
003908 - 004157	Mr Tommy CHEUNG Admin	New section 10(3) would not cover retailers of tobacco products	
004158 - 006023	Mr Tommy CHEUNG Admin Dr KWOK Ka-ki Mr Vincent FANG	Enforcement of new section 10(3)	
006024 - 010540	Ms Audrey EU Admin	Consideration should be given to advising all registered trademark applicants the fact that the approval of their applications by the Registrar of Trade Mark did not make them immune from being prosecuted under new section 10(3)	✓ (Admin to consider)
010541 - 010810	Mr WONG Ting-kwong Admin	Revocation of trademarks on the ground of deceiving the public	
010811 - 011227	Mr WONG Ting-kwong Admin	Consideration should be given to bringing the attention of the registered trademark holders of tobacco products about the legal risk they might face under the existing Trade Mark Ordinance and the implementation of new section 10(3) of the Bill	✓ (Admin to consider)

Time marker	Speaker	Subject	Action required
011228 - 011725	Dr KWOK Ka-ki Admin	How and when the Administration would take action to enforce new section 10(3)	
011726 - 012655	Mr Vincent FANG Mr Tommy CHEUNG	The Administration agreed to convey to the Intellectual Property Department (IPD) about the suggestion of actively taking step to revoke those registered trademarks of tobacco products which had not been used in Hong Kong for a prolonged period of time in accordance with legislation	✓ (Admin to convey IPD)
012656 - 014930	Mr WONG Ting-kwong Admin Mr Abraham SHEK Mr Vincent FANG Mr Tommy CHEUNG	Enforcer of new section 10(3) Pros and cons of new section 10(3) versus the proposed grandfathering-cum-notation approach	
014931 - 015036	Admin Chairman	Revised draft CSA to clause 19 of the Bill	
015037- 015226	Chairman Admin Mr Tommy CHEUNG	Date of next meeting	

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