

立法會
Legislative Council

LC Paper No. CB(4)871/14-15
(These minutes have been seen
by the Administration)

Ref : CB4/BC/6/13

Bills Committee on Copyright (Amendment) Bill 2014

Minutes of the third meeting
held on Saturday, 25 October 2014, at 9:00 am
in Conference Room 1 of the Legislative Council Complex

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

**Public officers
attending**

: Agenda item I

Commerce and Economic Development Bureau

Mr David WONG, JP
Deputy Secretary for Commerce and Economic
Development
(Commerce and Industry)2

Miss Fabia TAM
Assistant Secretary for Commerce and Economic
Development
(Commerce and Industry)3A

Intellectual Property Department

Ms Michelle CHONG
Assistant Director (Copyright)

Ms Jasmine KUN
Senior Solicitor (Copyright)3

**Attendance by
invitation**

: Agenda item I

Session 1

Hong Kong and International Publisher' Alliance

Mr Derek LEE

Hong Kong Reprographic Rights Licensing Society

Ms Dillys YU

IFPI (HKG) Ltd

Mr Ricky FUNG

Television Broadcasts Limited

Mr CHOW Kwong

Cable and Satellite Broadcasting Association of Asia

Mr John MEDEIROS

New People's Party

Mr WONG Wai-shing

Individual

Mr TAM Kwok-sun

Internet Society Hong Kong

Mr CHENG Pan-pan

Southern District Council

Mr AU Nok-hin

The American Chamber of Commerce in Hong Kong

Ms Gabriela KENNEDY

Federation of Hong Kong Filmmakers

Mr Anthony LEE

Individual

Mr Julian KAN Chi-chung

Liberal Party

Mr Peter SHIU

21 Century Fox

Mr Matthew KURLANZIK

IFPI Asian Regional Office

Ms Candy LAM

Hong Kong Copyright Alliance

Mr Peter LAM

Individual

Mr CHAN Chun-kit

Yong Democratic Alliance for the Betterment and
Progress of Hong Kong

Mr CHOW Ho-ding

Individual

Mr Haggen SO Hau-heng

Movie Producers & Distributors Association of
Hong Kong Limited

Mr Tony SHU

Mouse Frontline

Ms KWONG Chung-ching

Amnesty International Hong Kong

Ms AU Mei-po

Individual

Ms Euginia LAU Sze-wai

Individual

Mr Alan LAI

Warner Bros. (F.F.) Inc.

Ms KHOR Poh-hoon

Time Warner Inc.

Ms Jenny WONG

Turner Broadcasting System Asia Pacific, Inc.

Ms Margaret JOHNSON

Cable News International, Inc.

Ms Annabel ARCHER

The Law Society of Hong Kong

Mr Kenny WONG Kam-shan

中華國際出版社

鄭貞女士

MPA Motion Picture Association

Mr Frank RITTMAN

Popularization Committee for VOCALOID Culture

Kosaku Ikeda

International Federation of Creativity and
Technology Limited

Mr FUNG Tak-chung

Session 2

International Federation Against Copyright Theft
(Greater China) Limited

Mr Sam HO

Lagative Council, Be Represented for Sports,
Performing Arts, Culture and Publication

Mr YEUNG Ching-hin

Individual

Mr HO Ho-sum

The Melancholy of Creative Freedom

Ms Thirerei

Joint School ACG Union

Mr SIN Long-ching

Individual

Mr Nigel WONG Siu-chi

Individual

Ms LEE Tsz-kwan

Individual

Mr Ricky CHOI Kwok-kei

Entertainment Software Association

Mr Andrew COBDEN

Individual

Mr CHENG Ka-chun

Individual

方少良先生

PCCW Media Limited

Mr Michael FAGAN

Individual

Mr MAK Tin-ho

Sky Runner of skiescomic.com

Mokona/Salmon Nugget

Session 3

Hong Kong Culture Monitor

Miss Clarisse YEUNG Suet-ying,

HKCLU

Mr Craig CHOY

Individual

Ms WAN Ka-wing

我每次見到梁振英就會倒抽七口涼氣大聯盟

Mr CHAN Kai-him

Individual

Mr CHU Kin-sun

Individual

Ms CHAN Sin-tung

Individual

Ms HAU Hiu-tung

Individual

Mr KAM Wai-fung

同人文化推廣前自救聯盟

Mr LI Pui-yuet

Delay oh MOE

Doomsday

Individual

Mr YEUNG Tung-yuen

Individual

Mr CHAN Yat-hang

Individual

Mr LAW Kin-chung

二次創作權關注組

Ms Chiaki WOO

Individual

Ms WONG Chun-fong

蘇軾粵語填詞同好會

Shuang Shi (Frosted Time)

Individual

JN

Individual

Mr LAM Chi-fai

Session 4

Individual

Mr LEE Hing-ming

Neo Democrats

Mr Jeff KU

Keyboard Frontline

Mr Kafka LUK

Harcourt Road Resettlement Estate

Mr CHEUNG Man-lung

Hong Kong Recording Industry Alliance Ltd

Ms Grace CHUI

Individual

Mr NG Chung-tat

Sunshine Production

Ms LEE Pick-wen

公屋被迫遷戶關注組

Mr LAI Chi-po

Individual

張綺迪女士

Individual

Miss HO Suk-yue

I.B. LLC

江肇峰先生

版權修訂同人關注組

Mr LAM Lun-hing

Individual

Mr KUOK C.C.

Individual

高全勇先生

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

Staff in attendance : Miss Winnie LO
Assistant Legal Adviser 4

Mr Joey LO
Senior Council Secretary (4)3

Ms Anki NG
Council Secretary (4)3

Miss Mandy LAM
Legislative Assistant (4)3

Action

I. Meeting with deputations and the Administration

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

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
- 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)977/13-14(01) -- Paper on Copyright (Amendment) Bill 2014 prepared by the Legislative Council Secretariat (Background brief)

Other relevant papers

- 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)1077/13-14(01) -- Submission from Hong Kong Copyright Alliance dated 5 September 2014
- LC Paper No. CB(4)923/13-14(02) -- Submission from Hong Kong Copyright Concern Group dated 18 June 2014 (English version only)
- LC Paper No. CB(4)923/13-14(01) -- Submission from The American Chamber of Commerce in Hong Kong dated 17 June 2014 (English version only)

Discussion

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

Admin

2. The Bills Committee received views from 79 deputations/ individuals attending the meeting, and 8 419 written submissions from other organizations/individuals which/who did not attend the meeting. The Administration was requested to provide its response to the views expressed by the deputations/individuals and the written submissions received by the Bills Committee.

Date of next meeting

3. The Chairman reminded members that the fourth meeting would be held on 4 November 2014.

III. Any other business

4. There being no other business, the meeting ended at 5:45 pm.

Council Business Division 4
Legislative Council Secretariat
28 April 2015

**Proceedings of the third meeting of
Bills Committee on Copyright (Amendment) Bill 2014
on Saturday, 25 October 2014, at 9:00 am
in Conference Room 1 of the Legislative Council Complex**

Time marker	Speaker	Subject(s) / Discussion	Action Required
000430 - 000720	Chairman	Introductory remarks	
Session One			
000721 - 000910	Mr Derek LEE, Hong Kong and International Publisher' Alliance	Presentation of views [LC Paper No. CB(4)67/14-15(114)]	
000911 - 001010	Ms Dillys YU, Hong Kong Reprographic Rights Licensing Society	Presentation of views [LC Paper No. CB(4)67/14-15(104)]	
001011- 001230	Mr Ricky FUNG, IFPI (HKG) Ltd	Presentation of views [LC Paper No. CB(4)67/14-15(105)]	
001231 - 001516	Mr CHOW Kwong, Television Broadcasts Limited	Presentation of views [LC Paper No. CB(4)67/14-15(113)]	
001517 - 001750	Mr John MEDEIROS, Cable and Satellite Broadcasting Association of Asia	Presentation of views [LC Paper No. CB(4)67/14-15(07)]	
001751 - 002020	Mr WONG Wai-shing, New People's Party	Presentation of views	
002021 - 002300	Mr TAM Kwok-sun	Presentation of views	
002301 - 002537	Mr CHENG Pan-pan, Internet Society Hong Kong	Presentation of views	
002538 - 002810	Mr AU Nok-hin, Southern District Council	Presentation of views	
002811 - 003040	Ms Gabriela KENNEDY, The American Chamber of Commerce in Hong Kong	Presentation of views [LC Paper No. CB(4)67/14-15(106)]	
003041 - 003250	Mr Anthony LEE, Federation of Hong Kong Filmmakers	Presentation of views	

Time marker	Speaker	Subject(s) / Discussion	Action Required
003251 - 003530	Mr Julian KAN Chi-chung	Presentation of views	
003531 - 003725	Mr Peter SHIU, Liberal Party	Presentation of views	
003726 - 003820	Mr Matthew KURLANZIK, 21 Century Fox	Presentation of views [LC Paper No. CB(4)67/14-15(107)]	
003821 - 004100	Ms Candy LAM, IFPI Asian Regional Office	Presentation of views [LC Paper No. CB(4)67/14-15(108)]	
004101 - 004330	Mr Peter LAM, Hong Kong Copyright Alliance	Presentation of views [LC Paper No. CB(4)67/14-15(109)]	
004331 - 004520	Mr CHAN Chun-kit	Presentation of views [LC Paper No. CB(4)67/14-15(01)]	
004521 - 004656	Mr CHOW Ho-ding, Yong Democratic Alliance for the Betterment and Progress of Hong Kong	Presentation of views	
004657 - 004935	Mr Haggen SO Hau-heng	Presentation of views	
004936 - 005214	Mr Tony SHU, Movie Producers & Distributors Association of Hong Kong Limited	Presentation of views [LC Paper No. CB(4)67/14-15(02)]	
005215 - 005440	Ms KWONG Chung-ching, Mouse Frontline	Presentation of views	
005441 - 005724	Ms AU Mei-po, Amnesty International Hong Kong	Presentation of views	
005725 - 005924	Ms Euginia LAU Sze-wai	Presentation of views	
005925 - 010124	Mr Alan LAI	Presentation of views	
010125 - 010326	Ms KHOR Poh-hoon, Warner Bros. (F.F.) Inc.	Presentation of views	
010327 - 010425	Ms Jenny WONG, Time Warner Inc.	Presentation of views [LC Paper No. CB(4)67/14-15(111)]	

Time marker	Speaker	Subject(s) / Discussion	Action Required
010426 - 010635	Ms Margaret JOHNSON, Turner Broadcasting System Asia Pacific, Inc.	Presentation of views [LC Paper No. CB(4)67/14-15(110)]	
010636 - 010835	Ms Annabel ARCHER, Cable News International, Inc.	Presentation of views [LC Paper No. CB(4)67/14-15(103)]	
010836 - 011100	Mr Kenny WONG Kam-shan, The Law Society of Hong Kong	Presentation of views [LC Paper No. CB(4)67/14-15(117)]	
011240 - 011305	鄭貞女士 中華國際出版社	Presentation of views	
011306 - 011538	Mr Frank RITTMAN, MPA Motion Picture Association	Presentation of views [LC Paper No. CB(4)67/14-15(08)]	
011539 - 011820	Kosaku Ikeda, Popularization Committee for VOCALOID Culture	Presentation of views [LC Paper No. CB(4)67/14-15(52)]	
011821 - 012130	Mr FUNG Tak-chung, International Federation of Creativity and Technology Limited	Presentation of views	
012131 - 015740	Chairman Administration Mr Charles Peter MOK Ms KWONG Chung-ching Mr FUNG Tak-chung Mr Ricky FUNG Mr Haggan SO Hau-heng Ms Claudia MO Mr TAM Kwok-sun Mr Tony SHU Mr Anthony LEE Mr Martin LIAO Mr MA Fung-kwok Mr AU Nok-hin Mr Kenny WONG Kam-shan	Discussion on the need to update Hong Kong's copyright regime and the need to balance the interest of copyright owners and users. Discussion on the need to introduce copyright exception for user-generated content ("UGC"). Ms KWONG Chung-ching of Mouse Frontline said that the proposed copyright exceptions under the Bill would not provide adequate protection for users of copyright works who were engaged in online dissemination of UGC such as video clips of cover versions of songs or songs with rewritten lyrics, fan-made videos and streaming of video game playing. She said that UGC would not adversely affect the original work and should warrant exception. Mr Ricky FUNG of IFPI (HKG) Ltd said that UGC fell in the grey area between infringement and non-infringement of copyright and should be carefully studied before introduction of any wide copyright exception for it. Mr Tony SHU of Movie	

Time marker	Speaker	Subject(s) / Discussion	Action Required
		Producers & Distributors Association of Hong Kong Limited said that ownership of the copyright of a work would become unclear if copyright created for UGC. Mr Anthony LEE of Federation of Hong Kong Filmmakers cautioned that UGC exception should be assessed on a case by case basis rather than benefitting from a blanket approval. Mr Kenny WONG Kam-shan of the Law Society of Hong Kong said that the Society considered that the concept of UGC might be considered in light of overseas developments but such consideration should be left to the next round of updating exercised and it should not delay the current legislative work on updating the copyright regime which was long overdue. Mr Martin LIAO said that all exceptions should be based on the respect and protection of copyright. A balance should be struck between protection of copyright and freedom of expression. Discussion on the meanings of secondary creation and derivative work.	
015741 - 021125	Break		
Session Two			
021126 - 021410	Chairman	Introductory remarks	
021411- 021640	Mr Sam HO, International Federation Against Copyright Theft (Greater China) Limited	Presentation of views [LC Paper No. CB(4)67/14-15(12)]	
021641 - 021915	Mr YEUNG Ching-hin, Lagative Council, Be Represented for Sports, Performing Arts, Culture and Publication	Presentation of views [LC Paper No. CB(4)67/14-15(119)]	
021916 - 022150	Mr HO Ho-sum	Presentation of views	
022151 - 022440	Ms Thirdeir, the Melancholy of Creative Freedom	Presentation of views [LC Paper No. CB(4)67/14-15(16)]	

Time marker	Speaker	Subject(s) / Discussion	Action Required
022441 - 022720	Mr SIN Long-ching, Joint School ACG Union	Presentation of views [LC Paper No. CB(4)67/14-15(116)]	
022721 - 022956	Mr Nigel WONG Siu-chi	Presentation of views [LC Paper No. CB(4)67/14-15(24)]	
022957 - 023030	Ms LEE Tsz-kwan	Presentation of views	
023031 - 023215	Mr Ricky CHOI Kwok-kei	Presentation of views	
023216 - 023500	Mr Andrew COBDEN, Entertainment Software Association	Presentation of views [LC Paper No. CB(4)67/14-15(26)]	
023501 - 023730	Mr CHENG Ka-chun	Presentation of views	
023731 - 024020	方少良先生	Presentation of views [LC Paper No. CB(4)67/14-15(32)]	
024021 - 024310	Mr Michael FAGAN, PCCW Media Limited	Presentation of views [LC Paper No. CB(4)67/14-15(34)]	
024311 - 024540	Mr MAK Tin-ho	Presentation of views	
024541 - 024810	Mokona/Salmon Nugget, Sky Runner of skiescomic.com	Presentation of views [LC Paper No. CB(4)67/14-15(38)]	
024811 - 030012	Chairman Administration Mr Charles Peter MOK Ms Thirdrei	Discussion on the need to update Hong Kong's copyright regime and the need to balance the respective interests of copyright owners and users. Ms Thirdrei's (of the Melancholy of Creative Freedom) enquiry and the Administration's response on whether webmasters or administrators of discussion forums would be entitled to the same protection under the proposed safe harbour provisions as online service providers would. The Administration advised that under the proposed sections 65A and 88A, an online service provider meant a person who, by means of electronic equipment or a network, or both, provided, or operated facilities for, any online services. Such online services	

Time marker	Speaker	Subject(s) / Discussion	Action Required
		included the hosting, routing and location of information.	
030013 - 050153	Lunch Break		
Session Three			
050154 - 050440	Chairman	Introductory remarks	
050441 - 050710	Miss Clarisse YEUNG Suet-ying, Hong Kong Culture Monitor	Presentation of views	
050711 - 050945	Mr Craig CHOY, HKCLU	Presentation of views	
050946 - 051210	Ms WAN Ka-wing	Presentation of views [LC Paper No. CB(4)67/14-15(44)]	
051211 - 051455	Mr CHAN Kai-him 我每次見到梁振英就會倒抽七口涼氣大聯盟	Presentation of views [LC Paper No. CB(4)67/14-15(45)]	
051456 - 051520	Mr CHU Kin-sun	Presentation of views [LC Paper No. CB(4)67/14-15(49)]	
051521 - 051623	Ms CHAN Sin-tung	Presentation of views [LC Paper No. CB(4)67/14-15(53)]	
051624 - 051845	Ms HAU Hiu-tung	Presentation of views [LC Paper No. CB(4)67/14-15(58)]	
051846 - 051940	Mr KAM Wai-fung	Presentation of views	
051941 - 052230	Mr LI Pui-yuet 同人文化推廣前自救聯盟	Presentation of views [LC Paper No. CB(4)67/14-15(62)]	
052231 - 052500	Doomsday, Delay oh MOE	Presentation of views [LC Paper No. CB(4)67/14-15(64)]	
052501 - 052740	Mr YEUNG Tung-yuen	Presentation of views [LC Paper No. CB(4)67/14-15(68)]	
052741 - 052950	Mr CHAN Yat-hang	Presentation of views [LC Paper No. CB(4)67/14-15(69)]	
052951 - 053030	Mr LAW Kin-chung	Presentation of views [LC Paper No. CB(4)67/14-15(70)]	

Time marker	Speaker	Subject(s) / Discussion	Action Required
053031 - 053020	Ms Chiaki WOO 二次創作權關注組	Presentation of views [LC Paper No. CB(4)67/14-15(115)]	
053021 - 053550	Ms WONG Chun-fong	Presentation of views [LC Paper No. CB(4)67/14-15(73)]	
053551 - 053830	Shuang Shi (Frosted Time) 蘇軾粵語填詞同好會	Presentation of views [LC Paper No. CB(4)67/14-15(74)]	
053831 - 054045	JN	Presentation of views [LC Paper No. CB(4)67/14-15(46)]	
054046 - 054400	Mr LAM Chi-fai	Presentation of views [LC Paper No. CB(4)67/14-15(63)]	
054401 - 055819	Chairman Administration Mr Charles Peter MOK	Discussion on the need to update the copyright regime and the need to balance the respective interests of copyright owners and users of copyright works. Discussion on the operation of the safe harbour mechanism and the responsibility of online service providers.	
055820 - 071128	Break		
Session Four			
071129 - 071359	Chairman	Introductory remarks	
071400 - 071440	Mr LEE Hing-ming	Presentation of views [LC Paper No. CB(4)67/14-15(79)]	
071441 - 071720	Mr Jeff KU, Neo Democrats	Presentation of views [LC Paper No. CB(4)67/14-15(118)]	
071721 - 071744	Mr Kafka LUK, Keyboard Frontline	Presentation of views	
071745 - 071900	Mr CHEUNG Man-lung, Harcourt Road Resettlement Estate	Presentation of views	
071901 - 072130	Ms Grace CHUI, Hong Kong Recording Industry Alliance Ltd	Presentation of views	

Time marker	Speaker	Subject(s) / Discussion	Action Required
072131 - 072415	Mr NG Chung-tat	Presentation of views	
072416 - 072650	Ms LEE Pick-wen, Sunshine Production	Presentation of views	
072651 - 072920	Mr LAI Chi-po 公屋被迫遷戶關注組	Presentation of views	
072921 - 073130	張綺迪女士	Presentation of views	
073131 - 073420	Miss HO Suk-yue	Presentation of views	
073421 - 073700	江肇峰先生, I.B. LLC	Presentation of views	
073701 - 073940	Mr LAM Lun-hing 版權修訂同人關注組	Presentation of views	
073941 - 081056	Chairman Administration Ms CHAN Yuen-han Mr Charles Peter MOK Mr Kafka LUK Mr LAI Chi-po Ms CHEUNG Yee-dick	Discussion on the scope of protection provided by the proposed fair dealing exceptions in the Bill. Discussion on the need to balance the respective interests of copyright owners and users of copyright works. Ms CHAN Yuen-han's enquiry and the Administration's response on the definition of communication to the public.	
081057 - 081340	Mr KUOK C.C.	Presentation of views	
081341 - 081550	高全勇先生	Presentation of views	
081551 - 084640	Chairman Mr MA Fung-kwok Mr NG Chung-tat Mr Kafka LUK Mr LAI Chi-po Ms LEE Pick-wen 張綺迪女士 江肇峰先生 高全勇先生 Mr CHEUNG Man-lung Mr Jeff KU Mr Charles Peter MOK Administration	Discussion on the definition of secondary creation. The deputations expressed concern about possible abuse of civil litigation (e.g. through mere threatening) by copyright owners and the resulting chilling effect in cases of unauthorized use that was not covered by the proposed copyright exceptions under the Bill. Some deputations also reiterated that the introduction of exceptions for UGC and secondary creation would not have any adverse effect on the market of copyright works.	

Time marker	Speaker	Subject(s) / Discussion	Action Required
		They considered that the scope of permitted acts should include a wide range of common activities engaged by users on the Internet which might make use of copyright works on social media websites such as YouTube, Facebook and discussion forums, e.g. altered pictures/videos, mashups, doujinshi, image/video capture, streaming of video game playing, homemade videos and rewritten lyrics of songs. Mr Charles Peter MOK was of the view that the introduction of exception for UGC would provide greater, if not absolute, protection for users of copyright works. The Administration advised that the proposed fair dealing exceptions and the high threshold for criminal liability would provide adequate protection for users of copyright works by exempting their civil and criminal liabilities under appropriate circumstances. It was unlikely that UGC which did not amount to a substitute for the original copyright work would be caught by the criminal net. Given the legal principles governing civil liability, frivolous or vexatious civil claims would not be entertained by the court. The Administration believed that there should be reasonable safeguards to minimize abuse of civil litigation. Discussion on the need to balance the interest of copyright owners and the right of users of copyright works, and the need to update the copyright regime of Hong Kong. The Administration considered that the Bill represented a balance between copyright protection and reasonable use of copyright works, and would continue to work with LegCo and stakeholders with a view to passing the Bill to update the copyright regime as soon as possible.	