

立法會
Legislative Council

LC Paper No. CB(4)351/14-15
(These minutes have been seen
by the Administration)

Ref : CB4/BC/6/13

Bills Committee on Copyright (Amendment) Bill 2014

Minutes of the seventh meeting
held on Tuesday, 16 December 2014, at 4:30 pm
in Conference Room 2 of the Legislative Council Complex

- Members present** : Hon CHAN Kam-lam, SBS, JP (Chairman)
Hon Emily LAU Wai-hing, JP
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 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 Chi-chuen
Hon CHAN Yuen-han, SBS, JP
Hon Alice MAK Mei-kuen, JP
Hon Dennis KWOK
Hon SIN Chung-kai, SBS, JP
Dr Hon Elizabeth QUAT, JP
Hon Martin LIAO Cheung-kong, SBS, JP
Hon CHUNG Kwok-pan
- Members absent** : Hon WONG Ting-kwong, SBS, JP
Hon Ronny TONG Ka-wah, SC
Hon WONG Yuk-man
Hon Gary FAN Kwok-wai
Hon Christopher CHUNG Shu-kun, BBS, MH, JP

Public officers attending : Agenda item II

Commerce and Economic Development Bureau

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

Miss Patricia SO
Principal Assistant Secretary for Commerce and Economic Development
(Commerce and Industry)3

Intellectual Property Department

Ms Michelle CHONG
Assistant Director of Intellectual Property
(Copyright)

Ms Jasmine KUN
Senior Solicitor (Copyright) 3

Department of Justice

Mr Henry CHAN
Senior Government Counsel (Acting)

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

Staff in attendance : Miss Carrie WONG
Assistant Legal Adviser 4

Mr Joey LO
Senior Council Secretary (4)3

Action

I. Confirmation of minutes of meeting

(LC Paper No. CB(4)251/14-15 -- Minutes of meeting held on 18 November 2014)

The minutes of the meeting held on 18 November 2014 were confirmed.

II. Meeting with the Administration

Clause-by-clause examination of the Bill

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

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)153/14-15(01) -- Assistant Legal Adviser's letter dated 7 November 2014 to the Administration)

Other relevant papers

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

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)100/14-15(01) -- Administration's paper on user-generated content
- LC Paper No. CB(4)153/14-15(02) -- Administration's paper on application of fair dealing provisions)

Discussion

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

Date of next meeting

3. The Chairman reminded members that the eighth meeting would be held on 6 January 2015 at 4:30 pm to continue clause-by-clause examination of the Bill.

III. Any other business

4. There being no other business, the meeting ended at 6:26 pm.

**Proceedings of the seventh meeting of
Bills Committee on Copyright (Amendment) Bill 2014
on Tuesday, 16 December 2014, at 4:30 pm
in Conference Room 2 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
Agenda item I – Confirmation of minutes			
000301 – 000400	Chairman	Confirmation of minutes of meeting on 18 November 2014	
Agenda item II – Meeting with the Administration			
000401 – 002010	Chairman Ms Claudia MO Mr CHAN Chi-chuen Administration	Clause-by-clause examination of the Bill <u>Clause 10</u> Ms Claudia MO's enquiry and the Administration's response on the definitions of "rental" and economic or commercial advantage.	
002011 – 002100	Chairman Administration	<u>Clause 11</u>	
002101 – 002140	Chairman Administration	<u>Clause 12</u>	
002141 – 012117	Chairman Mr MA Fung-kwok Mr CHAN Chi-chuen Ms Claudia MO ALA Administration	<u>Clause 13</u> Mr MA Fung-kwok relayed the concern of copyright owners about the proposed section 28A(4) which stated that the mere provision of facilities by any person for enabling or facilitating the communication of a work to the public did not itself constitute an act of communicating the work to the public. Mr MA said that copyright owners had expressed concern that the proposed section might exonerate suppliers of unauthorized set-top boxes, satellite television receivers and other similar devices which could be used improperly for copyright infringement from any legal liabilities. The Administration advised that it was preparing a written response to the submissions from deputations and individual members of the public which had raised various issues, including the problem of copyright infringement involving the use of unauthorized devices. Mr CHAN Chi-chuen's enquiry and the Administration's response on the meaning of	

Time marker	Speaker	Subject(s)	Action required
		<p>"facilities" in the proposed section 28A(4).</p> <p>Discussion on the legal liabilities concerning the sharing of hyperlinks.</p> <p>The Administration advised that it was preparing a written response to the submissions from deputations and individual members of the public which had raised various issues, including the legal liabilities concerning the sharing of hyperlinks.</p> <p>Mr CHAN Chi-chuen's enquiry and the Administration's response on the Chinese term "提供的東西" under the proposed section 28A(6)(a).</p> <p>ALA's enquiry and the Administration's response on the Chinese term "信息" under the proposed section 28A(6)(b).</p> <p>The Administration advised that it was preparing a written response to ALA's enquiry regarding the above Chinese term. The Administration would also address the issue raised by Mr CHAN Chi-chuen regarding the use of the Chinese term "提供的東西" under the proposed section 28A(6)(a).</p>	
012118 – 012230	Chairman Administration	<p><u>Clause 14</u></p> <p>Ms Claudia MO's enquiry and the Administration's response on the legal liabilities relating to the making of an adaptation of literary work.</p>	
012231 – 013220	Chairman Ms Claudia MO Administration	<p><u>Clause 15</u></p> <p>Ms Claudia MO's enquiry and the Administration's response on the use of the Chinese term "分量" under the proposed section 31(3)(c).</p>	
013221 – 013750	Chairman Mr CHAN Chi-chuen Administration	<p><u>Clause 16</u></p> <p>Mr CHAN Chi-chuen's enquiry and the Administration's response on the definition of secondary infringement.</p>	
013751 – 015450	Chairman Mr SIN Chung-kai Mr CHAN Chi-chuen Administration	<p><u>Clause 17</u></p> <p>Mr SIN Chung-kai's and Mr CHAN Chi-chuen's enquiries and the Administration's responses on copying sound recordings for private and domestic</p>	

Time marker	Speaker	Subject(s)	Action required
		use, and permitted acts relating to media shifting.	
015451 – 015519	Chairman Administration	Date of next meeting	

Council Business Division 4
Legislative Council Secretariat
19 January 2015