

**立法會**  
**Legislative Council**

LC Paper No. CB(4)1407/14-15  
(These minutes have been seen  
by the Administration)

Ref : CB4/BC/6/13

**Bills Committee on Copyright (Amendment) Bill 2014**

**Minutes of the 21<sup>st</sup> meeting**  
**held on Monday, 6 July 2015, at 2:30 pm**  
**in Conference Room 2A 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 Paul TSE Wai-chun, JP  
Hon WONG Yuk-man  
Hon Claudia MO  
Hon YIU Si-wing, BBS  
Hon MA Fung-kwok, SBS, JP  
Hon Charles Peter MOK, JP  
Hon CHAN Chi-chuen  
Hon SIN Chung-kai, SBS, JP
- Members absent** : Hon WONG Ting-kwong, SBS, JP  
Hon Ronny TONG Ka-wah, SC  
Hon Cyd HO Sau-lan, JP  
Hon Dennis KWOK  
Dr Hon Elizabeth QUAT, JP  
Hon Martin LIAO Cheung-kong, SBS, JP  
Hon CHUNG Kwok-pan  
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 Fabia TAM  
Principal Assistant Secretary for Commerce and Economic Development  
(Commerce and Industry)3

Intellectual Property Department

Ms Michelle CHONG  
Assistant Director of Intellectual Property  
(Copyright)

Miss Emily WONG  
Senior Solicitor (Copyright)1

Ms Jasmine KUN  
Senior Solicitor (Copyright)3

Department of Justice

Mr Michael LAM  
Senior Assistant Law Draftsman (I)1

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

Miss Mandy LAM  
Legislative Assistant (4)3

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Action

**I. Confirmation of minutes of meeting**

LC Paper No. CB(4)1240/14-15 -- Minutes of meeting held on  
19 May 2015

The minutes of the meeting held on 19 May 2015 were confirmed.

**II. Meeting with the Administration**

Draft Committee Stage amendments

LC Paper No. CB(4)1249/14-15(01) -- Committee Stage amendment  
proposed by Hon Dennis  
KWOK

LC Paper No. CB(4)1257/14-15(01) -- Marked-up copy of the  
Committee Stage amendments  
proposed by the  
Administration

LC Paper No. CB(4)1233/14-15(01) -- Draft Committee Stage  
amendments proposed by the  
Administration and its  
response to the drafting issues  
raised by the Bills Committee

LC Paper No. CB(4)1242/14-15(01) -- Marked-up copy of the  
Administration's proposed  
Committee Stage amendments  
to the Bill prepared by the  
Legal Service Division  
(Restricted to members)

LC Paper No. CB(4)1257/14-15(02) -- Submission from the  
Progressive Lawyers Group  
dated 29 June 2015

LC Paper No. CB(4)1257/14-15(03) -- Submission from Copyrights and Derivative Works Alliance dated 29 June 2015(English version only)

LC Paper No. CB(4)1289/14-15(01) -- Hon WONG Yuk-man's (tabled at the meeting and subsequently issued to members on 7 July 2015) comments on the Committee Stage amendments proposed by the Administration as set out in LC Paper No. CB(4)1233/14-15(01)(Chinese version only)

LC Paper No. CB(4)1289/14-15(02) -- Committee Stage amendment (English version tabled at the meeting and subsequently issued to members on 7 July 2015) proposed by Hon Cyd HO Sau-lan

Other relevant papers

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)

Discussion

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

Legislative timetable

3. The Chairman said that the scrutiny of the Bill was nearly completed. Subject to the progress of discussion, he would report the deliberations of the Bills Committee to the House Committee on 9 October 2015 supporting resumption of the Second Reading debate on the Bill at the Council meeting of 28 October 2015. Members were advised that the deadline for giving notice of moving Committee Stage amendments ("CSAs") was 17 October 2015.

Date of next meeting

4. The Chairman proposed and members agreed that the two meetings scheduled for 15 and 21 July 2015 be cancelled in order to allow sufficient time for the preparation of draft CSAs proposed by members. The next meeting would be held in late September 2015 to follow up the matter.

*(Post-meeting note: With the concurrence of the Chairman, the next meeting would be held on 23 September 2015 at 2:30 pm.)*

**III. Any other business**

5. There being no other business, the meeting ended at 2:51 pm.

Council Business Division 4  
Legislative Council Secretariat  
12 August 2015

**Proceedings of the 21<sup>st</sup> meeting of  
Bills Committee on Copyright (Amendment) Bill 2014  
on Monday, 6 July 2015, at 2:30 pm  
in Conference Room 2A of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
<b>Agenda item I – Confirmation of minutes</b>			
000325 – 000400	Chairman	Confirmation of minutes of meeting on 19 May 2015 (LC Paper No. CB(4)1240/14-15).	
<b>Agenda item II – Meeting with the Administration</b>			
000401 – 001054	Chairman Mr SIN Chung-kai Mr WONG Yuk-man Administration	<p>Continuation of the discussion on the Committee Stage amendments ("CSAs") (LC Paper No. CB(4)1249/14-15(01)) proposed by Mr Dennis KWOK who was absent from the meeting.</p> <p>The Bills Committee noted the CSAs proposed by Ms Cyd HO who was absent from the meeting.</p> <p>Discussion on Mr WONG Yuk-man's comments on the CSAs proposed by the Administration which was tabled at the meeting.</p> <p>The Administration advised that it would consider the drafting issues raised by Mr WONG.</p>	
001055 – 001830	Chairman Mr CHAN Chi-chuen Ms Claudia MO Administration	<p>Discussion on the submissions from the Progressive Lawyers Group (LC Paper No. CB(4)1257/14-15(02)) and the Copyrights and Derivative Works Alliance (LC Paper No. CB(4)1257/14-15(03)).</p> <p>Discussion on the adoption of the fair dealing rather than the fair use doctrine in Hong Kong.</p> <p>The Administration advised that as discussed in previous meetings, the exhaustive approach of fair dealing exceptions had been adopted in Hong Kong and many other common law jurisdictions; whereas the open-ended fair use approach had been adopted in the United States ("US"). Under the fair dealing regime, copyright exceptions might apply to the use of copyright materials if such use was for any of the prescribed purposes in the law. On the contrary, the fair use doctrine did not specify the purpose of the use so long as the use was "fair" according to the assessment of several "fairness" factors.</p> <p>The Administration added that the public was consulted on whether the fair dealing approach should be replaced</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>by the fair use approach in 2004 . On balance, the Administration considered it important to give clear guidance to both copyright work users and owners regarding the particular purposes and circumstances under which an act might be done in relation to a copyright work without infringing copyright. The Administration came to the conclusion that a general non-exhaustive fair use regime along the US model should not be introduced, as the scope of the fair use regime was uncertain and it would involve a fundamental change to the copyright system of Hong Kong.</p> <p>Ms Claudia MO's enquiry and the Administration's response on whether the Administration would reconsider the adoption of the fair use doctrine in Hong Kong.</p> <p>The Administration advised that it did not rule out the possibility of reconsidering the adoption of the fair use doctrine in Hong Kong. Nevertheless, the reasons for maintaining the fair dealing exceptions following the abovementioned public consultation remained valid and any major changes to the existing copyright regime should only be introduced after a due process of thorough public consultation and discussion in the Legislative Council.</p>	
001831 – 001927	Chairman Mr SIN Chung-kai Mr CHAN Chi-chuen Administration	Legislative timetable	
001928 – 001946 –	Chairman Administration	Date of next meeting	