

立法會
Legislative Council

LC Paper No. CB(4)17/15-16
(These minutes have been seen
by the Administration)

Ref : CB4/BC/6/13

Bills Committee on Copyright (Amendment) Bill 2014

Minutes of the 22nd meeting
held on Wednesday, 23 September 2015, at 2:30 pm
in Conference Room 3 of the Legislative Council Complex

- Members present** : Hon CHAN Kam-lam, SBS, JP (Chairman)
Hon Abraham SHEK Lai-him, GBS, 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 WONG Yuk-man
Hon Claudia MO
Hon YIU Si-wing, BBS
Hon Charles Peter MOK, JP
Hon CHAN Chi-chuen
Hon Dennis KWOK
Hon SIN Chung-kai, SBS, JP
Hon Christopher CHUNG Shu-kun, BBS, MH, JP
- Members absent** : Hon Vincent FANG Kang, SBS, JP
Hon WONG Ting-kwong, SBS, JP
Hon Ronny TONG Ka-wah, SC
Hon MA Fung-kwok, SBS, JP
Dr Hon Elizabeth QUAT, JP
Hon Martin LIAO Cheung-kong, SBS, JP
Hon CHUNG Kwok-pan

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
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

Action

I. Meeting with the Administration

Draft Committee Stage amendments

- LC Paper No. CB(4)1450/14-15(02) -- First batch of Committee Stage amendments proposed by Hon WONG Yuk-man
- LC Paper No. CB(4)1475/14-15(01) -- Second batch of Committee Stage amendments proposed by Hon WONG Yuk-man
- LC Paper No. CB(4)1479/14-15(01) -- Third batch of Committee Stage amendments proposed by Hon WONG Yuk-man
- LC Paper No. CB(4)1289/14-15(01) -- Hon WONG Yuk-man's comments on the Committee Stage amendments proposed by the Administration as set out in LC Paper No. CB(4)1233/14-15(01)
- LC Paper No. CB(4)1289/14-15(02) -- Committee Stage amendments proposed by Hon Cyd HO Sau-lan
- LC Paper No. CB(4)1249/14-15(01) -- Committee Stage amendment proposed by Hon Dennis KWOK
- LC Paper No. CB(4)1474/14-15(01) -- Revised Committee Stage amendments proposed by the Administration and its further response to the drafting issues raised by the Bills Committee
- 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)1474/14-15(02) -- Revised marked-up copy of the Committee Stage amendments proposed by the Administration
- 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)1450/14-15(01) -- Submission from Hong Kong Copyright Alliance dated 31 August 2015 (English version only)
- LC Paper No. CB(4)1352/14-15(01) -- Response from International Federation of the Phonographic Industry to the submission of the Progressive Lawyers Group on the Hong Kong Copyright (Amendment) Bill 2014 regarding fair use received on 15 July 2015 (English version only)

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

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

Bills Committee's decision

2. Mr Dennis KWOK and Ms Cyd HO requested the Bills Committee to accept and move their respective proposed Committee Stage amendments ("CSAs"). Members present at the meeting supported the respective CSAs proposed by the members. The Chairman said that in view of the Bills Committee's decision, he would move the CSAs in the name of the Bills Committee.

Follow-up actions to be taken by the Administration

3. The Administration was requested to provide:
- (a) written responses to the respective CSAs proposed by Hon Dennis KWOK and Hon Cyd HO to be moved in the name of the Bills Committee, and the CSAs proposed by Hon WONG Yuk-man; and
 - (b) written responses to the respective submissions dated 29 June 2015 from the Progressive Lawyers Group regarding fair use and from the Copyrights and Derivative Works Alliance regarding user-generated content.

Date of next meeting

4. The Chairman reminded members that the 23rd meeting would be held on 6 October 2015 at 4:30 pm to continue the discussion on any further CSAs to be proposed by Mr WONG Yuk-man and Mr CHAN Chi-chuen.

II. Any other business

5. There being no other business, the meeting ended at 4:35 pm.

Council Business Division 4
Legislative Council Secretariat
14 October 2015

**Proceedings of the 22nd meeting of
Bills Committee on Copyright (Amendment) Bill 2014
on Wednesday, 23 September 2015, at 2:30 pm
in Conference Room 3 of the Legislative Council Complex**

| Time marker | Speaker | Subject(s) | Action required |
|--|---|---|-----------------|
| Agenda item I – Meeting with the Administration | | | |
| 000250 – 001720 | Chairman Administration Mr WONG Yuk-man | Briefing by the Administration on the revised Committee Stage amendments ("CSAs") proposed by the Administration and its further response to the drafting issues raised by the Bills Committee (LC Paper No. CB(4)1474/14-15(01)). | |
| 001721 – 010150 | Chairman Mr Dennis KWOK Ms Cyd HO Ms Claudia MO Mr CHAN Chi-chuen Administration | Briefing by Mr Dennis KWOK on his proposed CSAs (LC Paper No. CB(4)1249/14-15(01)). Discussion on the potential effect of contract override provisions on the Copyright Ordinance (Cap. 528) ("CO") and Hong Kong. The Administration advised that it had responded to the issues raised on contract override vide LC Paper No. CB(4)1182/14-15(01) issued in June 2015. The Administration noted that the United Kingdom had legislated on contract override, but the legislation remained controversial, and many other jurisdictions maintained a different position. It considered that it would not be a holistic way to handle the relevant issues through CSAs on the current Bill. The Administration undertook to look into the issue in the next round of copyright review. | |
| 010151 – 012310 | Chairman Ms Cyd HO Ms SIN Chung-kai Administration | Briefing by Ms Cyd HO on her proposed CSAs regarding user-generated content ("UGC") (LC Paper No. CB(4)1289/14-15(02)). Ms HO said that she would not proceed with moving her proposed CSAs regarding human rights. Ms Cyd HO said that the balance of the existing CO was tilted in favour of copyright owners and Hong Kong should follow the Canadian model. She noted the Organization for Economic Co-operation and Development's definition of UGC, which was: "content made publicly available over the Internet, which reflected a certain amount of creative effort, and which was created outside of professional routines and practices". With the introduction of the concept of UGC in CO, a more relaxed copyright environment would be created, hence enabling the creative industry to thrive. | |

| Time marker | Speaker | Subject(s) | Action required |
|-----------------|--|---|---|
| | | <p>The Administration advised that it had responded to the issues raised on UGC vide LC Paper No. CB(4)100/14-15(01) issued in October 2014. The Administration had reservations on the provision of an exception for UGC in Hong Kong as UGC was still an evolving concept and it carried uncertainty as a legal concept. So far only Canada had provided an exception for UGC. The Administration said that the existing exceptions in CO and the new ones proposed in the Bill would cover a great many UGC commonly seen on the Internet today. The Bill provided a balanced approach.</p> <p>Mr SIN Chung-kai's enquiry and the Administration's response on whether and when it would review the feasibility of introducing contract override provisions and/or a UGC exception in CO. The Administration responded that thorough discussions on those subjects had to be conducted among stakeholders and in society before making any legislative proposals, and reiterated its plan to review a number of outstanding copyright issues in next round of review as mentioned in LC Paper No. CB(4)1182/14-15(02).</p> | |
| 012311 – 020040 | Chairman Mr WONG Yuk-man Administration | <p>Briefing by Mr WONG Yuk-man on his proposed CSAs (LC Paper Nos. CB(4)1450/14-15(02), CB(4)1475/14-15(01) and CB(4)1479/14-15(01)).</p> <p>Mr WONG Yuk-man said that the drafting of CO was not consistent with the styles and practices as set out in <i>Drafting Legislation in Hong Kong – A Guide to Styles and Practices</i> ("the Guide") published by the Law Drafting Division of the Department of Justice. The CSAs proposed by him aimed to improve the drafting style of CO so as to achieve uniformity with the drafting styles and practices described in the Guide.</p> | |
| 020041 – 020540 | Chairman Ms Cyd HO Mr CHAN Chi-chuen Administration | <p>The Chairman asked members if they intended to propose further CSAs. Ms Cyd HO said that she had no further CSAs to propose. Mr CHAN Chi-chuen said that he would propose CSAs. The Chairman urged members to put forward any proposed CSAs that they might have to the Bills Committee as soon as possible to facilitate discussion at the next meeting.</p> <p>Legislative timetable</p> <p>Date of next meeting</p> | The Administration to follow up as per paragraph 3(a) and (b) of the minutes. |

Council Business Division 4
Legislative Council Secretariat
14 October 2015