

立法會
Legislative Council

LC Paper No. CB(4)551/15-16
(These minutes have been seen
by the Administration)

Ref : CB4/BC/6/13

Bills Committee on Copyright (Amendment) Bill 2014

Minutes of the 24th meeting
held on Monday, 2 November 2015, at 8:30 am
in Conference Room 2B of the Legislative Council Complex

- Members present** : Hon CHAN Kam-lam, SBS, JP (Chairman)
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon WONG Ting-kwong, SBS, 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 MA Fung-kwok, SBS, JP
Hon Charles Peter MOK, JP
Hon SIN Chung-kai, SBS, JP
Hon Christopher CHUNG Shu-kun, BBS, MH, JP
- Members absent** : Hon Abraham SHEK Lai-him, GBS, JP
Hon Vincent FANG Kang, SBS, JP
Hon Andrew LEUNG Kwan-yuen, GBS, JP
Hon CHAN Chi-chuen
Hon Dennis KWOK
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

Department of Justice

Mr Michael LAM
Senior Assistant Law Draftsman (I)1

Mr Henry CHAN
Senior Government Counsel (Acting)

Clerk in attendance : Mr Daniel SIN
Chief Council Secretary (4)3

Staff in attendance : Miss Carrie WONG
Assistant Legal Adviser 4

Mr Joey LO
Senior Council Secretary (4)2

I. Meeting with the Administration

Draft Committee Stage amendments

LC Paper No. CB(4)155/15-16(01) -- Marked-up copy of the
(tabled at the meeting and subsequently issued to members on 2 November 2015) Committee Stage amendments proposed by the Administration

LC Paper No. CB(4)155/15-16(02) -- Government's response to a
(tabled at the meeting and subsequently issued to members on 2 November 2015) member's proposed Committee Stage Amendments on the long title

LC Paper No. CB(4)155/15-16(03) -- Committee Stage amendments
(tabled at the meeting and subsequently issued to members on 2 November 2015) to be moved by the Chairman on behalf of the Bills Committee

LC Paper No. CB(4)61/15-16(01) -- Government's response to
members' proposed Committee Stage amendments and deputations' submissions

LC Paper No. CB(4)61/15-16(02) -- Marked-up copy of the
Committee Stage amendments proposed by the Administration

LC Paper No. CB(4)48/15-16(01) -- Committee Stage amendments
proposed by the Chairman on behalf of the Bills Committee

LC Paper No. CB(4)48/15-16(02) -- Committee Stage amendments
proposed by Hon WONG Yuk-man

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. The Bills Committee noted the Administration's reservation on Mr WONG Yuk-man's proposed amendments to the long title of the Copyright (Amendment) Bill 2014. The Committee also noted the Administration's revised set of Committee Stage amendments ("CSA") which would only cover amendments that are relevant to the subject matter of the Bill.

3. The Administration commented that Mr WONG Yuk-man's proposal to amend the Bill's long title was not necessary and might not comply with requirements of Rule 58(9) of the Rules of Procedure ("ROP") as decided by the President of the Legislative Council ("PLC") in his previous rulings. The Administration explained that a clear principle had been established in the previous rulings of PLC that the long title of a bill was not subject to amendment unless an amendment made to the substantive provisions in the bill made it necessary to make consequential amendment to the long title. Furthermore, the long title could not be amended to expand the scope of a bill to allow proposed amendments which would otherwise be outside the scope of the bill to be moved.

4. Assistant Legal Adviser remarked that in making a ruling on the admissibility of the proposed CSAs on the long title to be moved by a member, the long title of the Bill would only be one of the factors that PLC would take into account. Other relevant factors included the Legislative Council Brief, the explanatory memorandum of the Bill, the relevant provisions of the Bill, and the reasoning of PLC in his previous rulings.

5. In the light of the Administration's response, the requirements of Rules 58(9) of ROP and the Assistant Legal Adviser's views, the Chairman said that it would not be appropriate for him to move the proposed CSAs to the long title on behalf of the Bills Committee. It remained for Mr WONG Yuk-man to consider whether he would move the proposed CSAs. Members made no objection to the Chairman's decision.

6. Mr WONG Yuk-man moved a motion to adjourn the meeting to allow more time for him to discuss with the Administration on his proposed amendments to the long title of the Bill, and to review his other CSAs in the light of the Administration's latest version. In particular, Mr WONG said that he might need to consider whether he would take up and move the CSAs that the Administration had originally agreed to take up but had since then dropped. The Chairman put to vote Mr WONG Yuk-man's request to adjourn the meeting. Mr WONG Yuk-man and Ms Claudia MO voted for, and the Chairman and Mr WONG Ting-kwong voted against the motion. Two members abstained from voting. The Chairman declared that Mr WONG's motion was negated by the Bills Committee.

7. In response to Mr WONG Yuk-man's suggestion of holding further meetings so that he could present his other proposed CSAs, the Chairman said that the Bills Committee had already held 23 meetings. The Bills Committee should have sufficient opportunities to express their views on the provisions of the Bill and the Administration had also responded to members' comments and queries. The Chairman said that he did not intend to convene further meetings or reopen discussions on issues which had been thoroughly discussed at the Bills Committee. It would be up to individual members to move CSAs on their own.

8. The Chairman said that Mr CHAN Chi-chuen had requested at the last meeting that the Chairman should move Mr CHAN's CSAs on fair use on behalf of the Bills Committee. The Chairman invited members' views on Mr CHAN's request. The Chairman said that as a majority of members present and voted had agreed to Mr CHAN's suggestion, he would move the CSAs on behalf of the Bills Committee. The Chairman added that his moving of the CSAs did not signify the consensus of the Bills Committee to support the CSAs.

Legislative timetable

9. The Bills Committee completed scrutiny of the Bill. Members noted that the Chairman would report the deliberations of the Bills Committee to the House Committee on 13 November 2015. The Administration had indicated that it would resume the Second Reading debate on the Bill at the Council meeting of 25 November 2015. Members were advised that the deadline for giving notice of moving CSAs was 16 November 2015.

(Post-meeting note: At the House Committee meeting on 20 November 2015, members supported the PLC's suggestion to defer the resumption of the Second Reading debate on the Bill to the Council meeting of 9 December 2015 in order to allow more time of the Legislative Council Secretariat to handle CSAs.)

II. Any other business

10. There being no other business, the meeting ended at 10:30 am.

Council Business Division 4
Legislative Council Secretariat
1 February 2016

**Proceedings of the 24th meeting of
Bills Committee on Copyright (Amendment) Bill 2014
on Monday, 2 November 2015, at 8:30 am
in Conference Room 2B of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
Agenda item I – Meeting with the Administration			
000918 – 004530	Chairman Mr WONG Yuk-man Mr WONG Ting-kwong Ms Cyd HO Ms Claudia MO Mr SIN Chung-kai Administration	<p>Briefing by the Administration on its response to Mr WONG Yuk-man's proposed Committee Stage amendments ("CSAs") on the long title.</p> <p>The Administration commented that Mr WONG Yuk-man's proposed CSAs to the long title of the Bill were unnecessary and might not comply with the requirements of Rule 58(9) of the Rules of Procedure ("RoP") as decided by the President of the Legislative Council ("PLC") in his previous rulings.</p> <p>The Administration advised that it had reviewed and updated the set of CSAs proposed to be moved by the Secretary for Commerce and Economic Development. The Administration would make editorial amendments in accordance with the powers conferred to the Secretary for Justice under section 2A of the Laws (Loose-leaf Publication) Ordinance 1990 (51 of 1990) and section 17 of the Legislation Publication Ordinance (Cap. 614). Such editorial amendments would not be included in the Administration's CSAs.</p> <p>Mr WONG Yuk-man moved a motion to adjourn the meeting to allow more time for him to discuss with the Administration on his proposed CSAs to the long title of the Bill.</p> <p>The Chairman put to vote Mr WONG Yuk-man's request to adjourn the meeting. Members attending the Bills Committee meeting did not support Mr WONG's request.</p> <p>The Chairman also put to vote Mr CHAN Chi-chuen's request (raised at the last meeting) for the Chairman to move Mr CHAN Chi-chuen's proposed CSAs on fair use on behalf of the Bills Committee. Members attending the Bills Committee meeting supported Mr CHAN's request.</p>	

Time marker	Speaker	Subject(s)	Action required
004531 – 015620	Chairman Mr WONG Yuk-man Mr SIN Chung-kai Ms Claudia MO Assistant Legal Adviser 4 ("ALA") Administration	<p>Briefing by Mr WONG Yuk-man on his proposed CSAs (LC Paper No. CB(4)48/15-16(02)).</p> <p>Discussion on Mr WONG Yuk-man's proposed CSAs relating to textual and editorial amendments. Mr WONG asked about the relevance of PLC's ruling on the CSAs to the Communications Authority Bill proposed by Dr Hon Margaret NG to his proposed CSAs on the long title of the Bill.</p> <p>ALA pointed out that in making a ruling on the admissibility of the proposed CSAs on the long title to be moved by a member, the long title of the Bill would only be one of the factors that PLC would take into account. Other relevant factors included the Legislative Council Brief, the explanatory memorandum of the Bill, the relevant provisions of the Bill, and the reasoning of PLC in his previous rulings.</p> <p>ALA also drew members' attention to the Chinese text of the proposed CSAs relating to user-generated content ("UGC") to be moved by the Chairman on behalf of the Bills Committee. ALA said that when the Chairman agreed to take up the CSAs on UGC on the behalf of the Bills Committee, the corresponding Chinese text had not been prepared.</p> <p>Mr WONG Yuk-man requested for an additional meeting to be scheduled so that he could gain time to discuss with the Administration on his proposed amendments to the long title of the Bill.</p> <p>The Chairman declined Mr WONG's request, stating that members of the Bills Committee had had sufficient opportunities to express their views on the various provisions. It would be up to individual members to move CSAs on their own.</p> <p>The Chairman noted the Administration's response on Mr WONG Yuk-man's proposals to amend the long title of the Bill, and the requirements under Rule 58(9) of RoP, decided that it would not be appropriate for the Chairman to move the proposed CSAs to the long title on behalf of the Bills Committee if the proposed CSAs to the long title were to be ruled out of order, and members of the Bills Committee made no objection to the Chairman's decision.</p>	

Time marker	Speaker	Subject(s)	Action required
015621 – 015936	Chairman Administration	Legislative timetable	

Council Business Division 4
Legislative Council Secretariat
1 February 2016