

政制及內地事務局
政府總部

香港添馬添美道 2 號
政府總部東翼



CONSTITUTIONAL AND MAINLAND AFFAIRS BUREAU
GOVERNMENT SECRETARIAT

EAST WING
CENTRAL GOVERNMENT OFFICES
2 TIM MEI AVENUE, TAMAR
HONG KONG

本署檔號 Our Ref : CMAB E4/1/1
電話 Tel No : 2810 2333
傳真 Faxline : 2524 7437

(By email and fax)
(Fax no.: 2509 9055)

[English Translation]

Ms Joanne MAK
Clerk to Bills Committee on National Anthem Bill
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

30 May 2019

Dear Ms MAK,

Supplementary Information on the National Anthem Bill

Regarding the questions raised by members at the meetings of the Bills Committee on 10 May and 18 May this year, our reply is set out below.

Frequency of broadcasting of the national anthem on radio and television stations in the Mainland

2. According to our understanding, to celebrate the 70th Anniversary of the People's Republic of China, starting from mid-May to end of this year, all levels of radio and television stations have to broadcast the national anthem at 7am every day on primary channels. We must emphasise that currently, clause 10 of the National Anthem Bill (the Bill) reflects the legislative intent of Article 12 and 13 of the National Anthem Law and at the same time gives due regard to the actual circumstances in Hong Kong by broadcasting the national anthem on radio and television through the existing mechanism for broadcasting the announcements or

material in the public interest (“APIs”). Upon passage of the Bill, the Communications Authority and the Information Services Department will follow up using the existing mechanism.

Amending clause 11 of the Trade Marks Ordinance (Cap. 559)

3. A Member asked if clause 13 of the Bill is in line with the Paris Convention. Following the provisions of the Paris Convention, which is applicable to Hong Kong, a contracting party may determine the conditions for the filing and registration of trade marks in its domestic legislation. Insofar as registration of trade marks in Hong Kong is concerned, the Trade Marks Ordinance (Cap. 559) (“TMO”) stipulates that a trade mark shall not be registered if, inter alia, its use is prohibited in Hong Kong under or by virtue of any law.

4. Pursuant to clause 6 of the Bill, the use of the national anthem or the lyrics or score of the national anthem in a trade mark is to be prohibited. Accordingly, clause 13 of the Bill proposes consequential amendments to section 11(6) of the TMO to explicitly spell out that a mark which consists of or contains the national anthem shall not be registered.¹ Upon enactment, such consequential amendments to the TMO will form part of the statutory conditions for the registration of a trade mark in Hong Kong. This is allowed under the Paris Convention.

Yours sincerely,



(Ms Cordelia LAM)

for Secretary for Constitutional and Mainland Affairs

c.c. Secretary for Commerce and Economic Development
(Attn: Ms Joanna CHEUNG, Fax no.: 2147 3065)

Secretary for Justice
(Attn: Mr Lawrence PENG, Fax no.: 3918 4613
Mr Jonathan LUK, Fax no.: 3918 4613)

¹ Section 11(6) of the TMO already provides that a trade mark shall be refused registration if it consists of or contains the national flag, the national emblem, the regional flag, the regional emblem, or their designs. This follows the principal prohibition set out in the National Flag and National Emblem Ordinance and the Regional Flag and Regional Emblem Ordinance respectively.