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20 September 2021

Mr Daniel SIN
Chief Council Secretary (1)6
Council Business Division 1
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

Dear Mr Sin,

**Bills Committee on Film Censorship (Amendment) Bill 2021
Follow-up to the Meeting on 14 September 2021**

I refer to your email dated 15 September 2021. Our response is as follows –

(a) Extending the period for making film censorship decisions

2. The new s.10(A) as proposed by the Film Censorship (Amendment) Bill 2021 (“the Bill”) empowers the Secretary for Commerce and Economic Development (“SCED”) to extend the period for censors to make film censorship decisions if he is of the opinion that the exhibition of the film might be contrary to the interests of national security.

This aims to provide censors with sufficient time to process cases that may involve national security considerations as necessary, including making reference to expert and legal advice and carefully considering the cases, in order to make appropriate decisions.

3. We believe that very few films that involve national security considerations would require more time to process following the commencement of the Bill, and there should not be any material effect on the industry. In deciding whether to grant a time extension, SCED would consider on a case-by-case basis whether the exhibition of the film might be contrary to the interests of national security, whether there is actual operational need to grant a time extension, and whether the justifications are reasonable and proportionate, bearing in mind the duty of the censor to make a decision within a reasonable time.

4. As for films that do not involve national security considerations, the existing statutory requirement and the performance pledge of the Office for Film, Newspaper and Article Administration (“OFNAA”) remain applicable. Indeed, in processing most of the films submitted for censorship, the censors are able to make decisions in accordance with OFNAA’s performance pledge (i.e. within 8 working days). In the past 3 years, 99% of the films were processed within 8 working days. In addition, applicants may contact censors at any time to enquire about the progress of film censorship and related matters.

(b) Films for which certificates of approval or certificates of exemption have been issued

5. Under the existing Film Censorship Ordinance (Cap.392), a certificate of approval or certificate of exemption issued for any film will remain valid unless the certificate is subject to conditions in relation to the time and venue of exhibition or other relevant conditions (e.g. where the certificate is only applicable to a particular film festival event). The Bill will not change the above framework.

6. Following the commencement of the Bill, once the Chief Secretary for Administration exercises the power to direct the Film Censorship Authority to revoke certificates of approval or certificates of exemption previously issued for a particular film, there is no longer any valid certificate in respect of that film and it must not be exhibited. The Government will give notice to the person to whom the relevant certificates were issued, and make appropriate arrangements (e.g. issuing a press

release) to ensure the public is aware that the certificates for that film have been revoked. Unless the Chief Secretary for Administration exercises such power, any film for which a certificate of approval or certificate of exemption has been issued may continue to be exhibited.

(c) Referencing relevant legislation

7. In the process of drafting the Bill, we need to give priority to the Hong Kong Special Administrative Region's duty to safeguard national security, as well as the experience in the implementation and operation of the film censorship regulatory framework, to ensure that the Bill meets the actual circumstances of film censorship in Hong Kong. We have made reference to the film censorship legislation in other countries, such as the Films Act in Singapore, in which s.16 specifies that the parties responsible for film censorship must refuse to classify any film that is against national security.¹

Yours sincerely,



(Keith GIANG)

for Secretary for Commerce and Economic Development

c.c. Department of Justice
(Attn : Ms Angela YOUNG, Senior Government Counsel/CU
Mr Salvador TSANG, Senior Government Counsel/LDD
Miss Carol LAM, Government Counsel/LDD)
Office for Film, Newspaper and Article Administration
(Attn : Mr. Derek LEE, AD(FNAA))

¹ S.16(1)(d) of the Films Act in Singapore: "Despite anything in this Act, the Authority, the Committee of Appeal and an individual who is registered as a film content assessor must refuse to classify any film that is against national security to be classified."