

**Notes of the 3rd Working Group Meeting  
on “Development of Non-statutory Guidelines  
for Copying and Distribution of Works in an Electronic Environment  
by Not-for-profit Educational Establishments”**

**Held on Friday 28 April 2003**

**at the Intellectual Property Department  
Room 2501, 25th Floor, Wu Chung House,  
213 Queen’s Road East,  
Wanchai, Hong Kong**

**Present :** Representative of The Open University of Hong Kong  
(OUHK)

Representative of Hong Kong Teacher-Librarians Association  
(HKTLA)

Representative of Hong Kong Subsidized Secondary Schools  
Council (HKSSSC)

Representative of Hong Kong Subsidized Primary Schools  
Council (HKSPSC)

Representative of Hong Kong Professional Teachers’ Union  
(HKPTU)

Representative of Task Force on Reprographic Rights  
Licensing established under Heads of Universities Committee  
(HUCOM)

Representative of The Hong Kong Association for Computer  
Education (HKACE)

Representative of Hong Kong Reprographic Rights Licensing  
Society (HKRRLS)

Representative of Joint University Librarians Advisory Committee (JULAC)

Representative of Hong Kong Library Association (HKLA)

Representative of Hong Kong Publishing Federation Limited (HKPFL)

Representative of Hong Kong Educational Publishers Association (HKEPA)

Representative of The Anglo-Chinese Textbook Publishers Organisation (ACTPO)

Representative of Television Broadcasts Limited (TVB)

Representative of International Federation of the Phonographic Industry (Hong Kong Group) Limited

Representative of Motion Picture Industry Association Limited (MPIA)

Representative of Motion Picture Association (MPA)

Representative of Business Software Alliance (BSA)

Representative of Composers and Authors Society of Hong Kong Limited (CASH)

Representative of Hong Kong Education City Limited (HKECL)

Mr. Jeffrey CHAN  
Commerce, Industry and Technology Bureau (CITB)

Mr. CHAN Hau-wing  
Education and Manpower Bureau (EMB)

Mr. Simon IP  
Education and Manpower Bureau (EMB)

Mr. Stephen SELBY (Convenor)  
Intellectual Property Department

Ms. Joey HUNG (Secretary)  
Intellectual Property Department

**Absent with apologies:** Representative of Grant Schools Council (GSC)

Representative of Union of Government Primary  
School Headmasters and Headmistresses

Representative of Hong Kong Copyright  
Licensing Association (HKCLA)

Representative of Hong Kong Cable Television  
Limited (HKCTV)

Representative of AOL Time Warner

Representative of Music Publisher Association

*The meeting commenced at 3:10 p.m.*

1. Mr. SELBY welcomed the Working Group members.

### **Agenda Item I**

2. The representative of International Federation of the Phonographic Industry (Hong Kong Group) Limited proposed the following amendment to the Chinese version of the draft notes of the 2<sup>nd</sup> meeting

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- (a) Paragraph 39 - change 「...現在很多商業性的音樂紀錄已可用作簡報材料。...」 to 「...現在市面上已存在很多包括公開演出及有限複製授權之商業性的音樂紀錄可用作簡報材料。...」。

3. Members of the Working Group accepted the above proposed amendment. The notes of the 2<sup>nd</sup> meeting (Chinese version) were confirmed.
4. Mr. SELBY said the English translation of the 2<sup>nd</sup> meeting would be prepared by the Secretariat in due course for members' perusal.

### **Agenda Item II**

5. The notes of the first meeting (English version) were confirmed.
6. At the 2<sup>nd</sup> meeting, the representative of HKSSSC had enquired whether it was necessary for teachers to obtain the permission of the Hong Kong Examination and Assessment Authority (HKEAA) for using its examination papers published in printed form or in the form of CD-ROM (see paragraphs 12 and 13 of the notes of meeting). In response to the enquiry, Mr. CHAN Hau-wing of EMB said that he had sought HKEAA's advice on this and had browsed its webpage. HKEAA indicated that it owned the copyrights of its publications and website materials and was authorised to use these publications and materials. Except with legal exemptions, no one was allowed to copy, amend, distribute, publish, exhibit or store any portion of these publications or website materials by any means.
7. Mr. SELBY asked the participants whether they had any views before proceeding to Agenda Item III. The participants said they had no further views.

### **Agenda Item III (1)(a)**

8. Mr. SELBY sought the views of the publishing industry on the question as stated in Agenda Item III (1)(a).
9. The representative of ACTPO said that their present stance was generally the same as that indicated in the draft notes of the 2<sup>nd</sup>

meeting. He opined that it was more appropriate that this issue be governed by means of licensing mechanisms. As textbooks might contain contents involving the authorisation for use by a third party, it would be more complicated if fair use guidelines were used to deal with the copying and distribution of a portion of a textbook in an electronic environment by teachers. He reiterated the following three points -

- (1) The authorisation obtained by the publishers for using third party information did not cover “electronic copyright”.
- (2) As regards the extent of permissible copying and distribution of a portion of a textbook in an electronic environment, consideration should be given to how the percentage of copying and distribution was determined.
- (3) The industry was concerned whether schools had sufficient monitoring mechanisms for preventing the abuse of copyright works if teachers were allowed to upload a portion of a textbook to the school intranet.

Therefore, the publishing industry held that textbooks were a particular type of works. The copying and distribution of these works in an electronic environment by the education sector should be governed by licensing mechanisms. Such mechanisms might cause slight inconvenience, but they were feasible solutions for governing the use of electronic materials.

10. The representative of HKEPA said that the Association had written to seek its members’ views. However, its members were not unanimous in their preliminary views. Some opined that there was sufficient room for teachers to use a portion of a textbook under the existing licensing schemes, i.e. through the licences granted by HKRRLS. If after the development of the previous Guidelines, further guidelines were formulated to allow teachers to copy and distribute a certain percentage of a textbook by electronic means, a

series of problems might probably arise. For example, this might have an impact on the publishers in terms of protection and actual return. However, some were of the view that teachers and students should be allowed to download certain copyright information. HKEPA would convene a meeting on 7 May to further discuss the licensing options. It was hoped that the meeting would come up with more specific views. The representative of HKEPA would brief members of the Working Group on the views expressed at the next meeting.

11. Mr. SELBY asked the representative of HKRRLS whether their copying licences covered copying (e.g. by scanning) and distribution of works in an electronic environment.
12. The representative of HKRRLS replied that their copying licences were only applicable to the photocopying of printed works.
13. The representative of HKEPA added that with regard to the licensing mechanisms, there should not be separate mechanisms in respect of printed works and other media works. The same mechanism could be applicable to other media works.
14. Mr. SELBY sought the views of other representatives in the education sector.
15. The representative of OUHK said that he could hardly understand the problems faced by the publishing industry. For large-scale copying of a textbook, a licence could be obtained under the licensing scheme. For insubstantial copying of a portion of a textbook to a reasonable extent, there should be a limit accepted by both parties (e.g. a limit on the number of words). The current discussion was not related to large-scale copying by electronic means. As the previous Guidelines, the current Guidelines would set the limit of copying and distribution of works in an electronic environment to a reasonable extent. The current Guidelines were related to the copying and distribution of a small portion of a textbook. The Working Group was tasked with

formulating the Guidelines, laying down the conditions for copying and distribution of a portion of copyright works in an electronic environment to facilitate teaching.

16. The representative of HKEPA said that they had to safeguard their own business viability. They were worried that if teachers were allowed to scan and upload a portion of a textbook on the school intranet, it was very likely that reprographic copies of that portion would be made. Even the amount of copying and reprographic copying was not substantial, such copying would, in the aggregate, become large-scale copying.
17. The representative of OUHK said that the Guidelines would set a limit on the overall amount of copying and distribution. The publishing industry should not be unduly worried.
18. Mr. SELBY said that browsing information on the internet was not an infringement under the copyright legislation in Hong Kong. However, printing such information onto paper or saving it on the hard disk without the consent of the copyright owner could constitute an infringement of copyright.
19. The representative of HKEPA commented that if there was clear information on the extent of copying, storage and distribution via the intranet, the meeting could carry on the discussions on the formulation of the Guidelines.
20. The representative of OUHK emphasised that the information stored on the intranet could only be browsed by students taking the relevant course (e.g. 10 to 20 students). Hence, the circulation did not exceed the scope of the previous Guidelines in relation to the distribution of printed copies to students. In fact, such information might not be useful to other students. He reiterated that the purpose of the Guidelines was to facilitate teaching. Teachers never had the intention to pretend there was a need of copying so as to abuse

copyright works by means of the Guidelines. Therefore, the Guidelines would not lead to a large number of infringement cases.

21. The representative of HKACE said that at this preliminary stage, the meeting had not discussed the core of the Guidelines, e.g. the percentage of permissible copying and distribution. Therefore, it might not be fair to ask the publishing industry to give a definite answer. He asked whether the printed electronic copies referred to in the current Guidelines were the same as the printed texts in the previous Guidelines. He considered that the two Guidelines should be interrelated and there should be coordination in the calculation of figures.
22. Mr. SELBY asked the meeting whether teachers could use the read-only mode forbidding printing when they upload materials (not the whole book) copied pursuant to the previous Guidelines to the intranet. He mentioned that such a mode could be used when producing pdf files for use with Adobe Acrobat.
23. The representative of JULAC said that it was difficult to require every educational establishment or every teacher to master the technique, i.e. only allowing students to browse the presentation materials stored on the intranet but not printing them out.
24. Mr. SELBY asked the representative of the publishing industry whether, in consultation with its members, it had mentioned that the teaching materials stored on the school intranet were copied pursuant to the previous Guidelines.
25. The representative of HKEPA said that its members had assumed during the discussion that the publishing industry could not effectively monitor the uploading and downloading of information on the intranet.
26. The representative of the ACTPO said that as the previous Guidelines had laid down the conditions for photocopying of printed works (e.g.

not more than 5% of the number of pages of a printed textbook may be copied in aggregate in one academic year), they were less worried about the abuse of such works. However, if the copied portion was uploaded on the intranet, it could be downloaded and printed out by students, leading to a greater chance of abuse of on-line copyright information. Therefore, they hoped the education sector could establish a clear monitoring mechanism. He further pointed out that “electronic licensing” was in fact a new concept, about which no relevant information was available for the industry’s reference. It was therefore premature to require the publishing industry to indicate whether they accepted the Guidelines. He said that at this stage, the publishing industry would like to seek clarification on the following -

- (1) the extent of copying and storing of works in an electronic environment;
- (2) the extent of distribution via the school intranet; and
- (3) whether there was an effective mechanism monitoring the use of on-line information.

27. The representative of HUCOM opined that copying and distribution of works via the internet were the same as photocopying of printed works stated in the previous Guidelines. According to the previous Guidelines, teachers could copy a portion of a textbook and distribute it to students for reading. But they were unable to control how students would subsequently handle such copies. Under the current Guidelines, only students with the password were allowed to browse the on-line information and other people were not allowed access to it. He said he did not understand the concern of the publishing industry.

28. Mr. SELBY suggested that the publishing industry should consider the following question -

“Would the publishing industry agree that teachers should be allowed to scan photocopies of a portion of a textbook made pursuant to the

previous Guidelines (e.g. not more than 5% of the number of pages of a textbook may be copied in aggregate in one academic year) and upload it on the school intranet (the definition of intranet should include the element of password access) for instructional purposes? ”

Mr. SELBY enquired if the representatives of the education sector agreed to discuss this item. The representatives of the education sector had raised no objection.

29. The representative of JULAC said that schools had always adopted the technical surveillance measures (such as requiring users to provide a log-in password). The question was what level of surveillance was required. It would be absolutely feasible if the restriction was simply to allow only teachers and students to browse the on-line information.
30. The representative of OUHK expressed that nowadays students could scan information any time. It was not necessary for them to obtain printed information from their teachers. He opined that a clear message should be conveyed to students. If they just copied a small portion of a copyright work, they could do so in accordance with the existing mechanism. If they needed to make large-scale copying, they should apply for a copying licence directly from HKRRLS. For copying on an even larger scale, they should buy the book instead.
31. Mr. SELBY repeated the question mentioned in paragraph 28 above and requested the publishing industry to present its members' views on the question at the next meeting.
32. The representative of HKRRLS said that they would consult overseas publishers on the same question and brief members on the consultation at the next meeting.
33. The representative of International Federation of the Phonographic Industry (Hong Kong Group) Limited indicated that nowadays musical recordings were already available in electronic format. The

mode of business operation was to make musical recordings in electronic format available to the public through the internet. The international community generally took the view that it was acceptable to use musical recordings to a reasonable extent for instructional purposes. However, they objected to the granting of exemptions across-the-board for copying and distribution of musical recordings in electronic format by means of legislation or guidelines. This issue should be governed through licensing schemes and they would process collectively applications for copying and distribution submitted by the education sector. He further pointed out that copying and distribution of multi-media works would pose a series of problems and this was not as simple as the case with printed works. He said that, for example, from their point of view, the definition of education sector was not a clear concept. They hoped to assist different types of schools (such as government-aided schools and private schools) to obtain the relevant licences. But such licences should be granted to facilitate teaching and money was not a primary consideration.

34. Mr. SELBY added that the textbook mentioned in paragraph 28 referred to a textbook in printed form but not in multi-media format.

### **Agenda Item III (1)(b)**

35. Mr. SELBY sought the views of the musical, film and broadcasting industries on Agenda Item III(1)(b).
36. The representative of the International Federation of the Phonographic Industry (Hong Kong Group) Limited said that when teachers needed to upload, store and distribute a portion of a musical recording through the intranet for instructional purposes and embed it in PowerPoint or similar computer software presentations pursuant to the permitted acts under the Copyright Ordinance, they should do so through licensing schemes to meet their practical needs. As protection of copyright was an important issue, they did not support the granting of across-the-board exemptions by means of legislation or guidelines unless a mechanism against infringement of copyright

was available. He emphasised that money was not a primary consideration in granting the licences. He held that direct consultation with the education sector on the licensing conditions would be a better way to meet their practical needs.

37. Mr. SELBY opined that pursuant to the statutory permitted acts under the Copyright Ordinance, teachers were allowed to copy and embed a portion of a film or sound recording in a PowerPoint or similar computer software presentation for playing in public to students. He said he was unable to advise on the point regarding whether the definition of the wordings “dealt with” in section 41(5) covered the storage and distribution of the presentation (which contained a copy of a portion of a film or sound recording) via the intranet. However, he opined that the licence was granted on the premise that such storage and distribution were regarded as illegal acts.
38. The representative of the International Federation of the Phonographic Industry (Hong Kong Group) Limited reiterated that copying and distribution of musical recordings in an electronic environment should be governed through licensing schemes. The industry would welcome discussions with the users to determine the licensing conditions in the light of their practical needs. This would be a more effective approach than formulating the Guidelines.
39. The representative of HKACE said, from the viewpoint of the education sector, section 41 allowed teachers to perform certain acts which were not infringing the copyright of the relevant works for instructional and examination purposes. There were circumstances whereby presentation materials which contained a portion of recorded music or film were stored and distributed to students via the intranet after they had been played to students. He asked whether such acts were regarded as “subsequent dealing”. He pointed out that, in view of the technological development, nowadays teaching was no longer confined to one transmissive mode (e.g. apart from displaying the presentation materials, information could be broadcasted and transmitted to students via their personal computers and worksheets could be distributed to students for reading outside class). He

personally held that the term “instruction” should be defined in a broad sense and acts performed for instructional purposes should not be regarded as “subsequent dealing”.

40. The representative of the International Federation of the Phonographic Industry (Hong Kong Group) Limited indicated that theoretically classroom performance could be regarded as part of the teaching process. However, before an act involving the storage and distribution of a portion of a musical recording via the intranet was carried out, a licence should be obtained first. He reiterated that the industry and the education sector should engage in dialogue with each other for active discussions on the details of the licensing arrangements.
41. Mr. SELBY clarified that the point under discussion now involved the embedding, pursuant to the existing statutory permitted acts under the Copyright Ordinance, of a very short portion of recorded music or film in PowerPoint or similar computer software presentations.
42. The representative of the International Federation of the Phonographic Industry (Hong Kong Group) Limited said that under the relevant licensing schemes, the licences might be granted by charging only a nominal fee or even free of charge with the consent of the copyright owner.
43. The representative of MPIA said that with regard to film recordings, there would be practical difficulties in formulating and enforcing the Guidelines. This was because Hong Kong only played the role of a distributor with only distribution right but no reproduction right. Even in the case of local films, the reproduction rights of such films were not necessarily owned by the local film companies due to the involvement of international investors. In the case of foreign films, the reproduction rights were generally owned by the foreign film companies. Therefore, the industry’s stance was to give assistance, through consultation, to teachers as far as possible in order to meet their instructional needs. However, this had to be done by means of licensing schemes rather than formulating the Guidelines. In fact,

the film industry did not have a collective organisation that could act as an agent for dealing with the use of films worldwide. He made it clear that they did not resist the use of a portion of a film recording by the education sector for instructional purposes. However, in relation to further copying, storing and distribution via the intranet, their concerns were as follows-

- (1) The security of on-line activities. Apart from relying on teachers' integrity, there was no other information to guarantee that sufficient monitoring measures were in place to prevent the abuse of electronic copies of films distributed via the intranet.
- (2) There would be difficulties in enforcement. There was not a single organisation that could act as an agent for dealing with the use of all films collectively.

44. The representative of TVB said that the broadcast programmes they produced involved the works of other sectors. It was impossible for them to give permission for the use of all copyright works. Therefore, they could not approve the Guidelines. She said that so far only the universities had requested to use their broadcast programmes, sound recordings or other visual materials. Drama programmes were seldom used except in subjects on performing arts. The portion requested to be used usually exceeded 15 seconds in duration. If it was too short, it might destroy the integrity, distort the intended message of the programme or lead to improper prejudice (e.g. for public affairs programmes, if the portion used was too short, it might not be able to reflect both the pros and cons presented in the programme). In this connection, they would prefer to adopt licensing arrangements because this was a well-tried and effective solution. It not only enabled proper monitoring by the industry, but also gave both parties adequate flexibility to handle the issue while also protecting works involving the copyright of a third party. She stressed that they supported the reasonable use of copyright works by the education sector for instructional purposes.

45. The representative of HKSPSC said that it was impossible to require teachers to identify the relevant copyright owners and obtain their consent before using all copyright works. The purpose of the Guidelines was to facilitate teaching and determine the extent to which the education sector could use the relevant copyright works.
46. The representative of OUHK asked the representative of TVB about the granting of permission by the company.
47. The representative of TVB stated that one of their departments was responsible for processing applications for using their broadcast programmes. Depending on the content and nature of the programme, permission could be granted by the company if the programme was solely owned by TVB. But if the programme involved the works of a third party, they would inform the applicant of this fact so that the applicant would apply to the relevant party himself for permission.
48. The representative of OUHK pointed out that TVB had said that if the company owned the copyright of a certain programme, it would give permission to the educational establishments for using the programme, otherwise it would seek permission from the copyright owner. In this circumstance, he did not understand why the company would prefer to adopt the licensing arrangements.
49. The representative of JULAC said that they had already been given limited permission by the broadcasting industry for using the broadcast programmes. She enquired whether other media industries had set up similar licensing schemes for granting licences on behalf of the copyright owners.
50. The representative of the International Federation of the Phonographic Industry (Hong Kong Group) Limited indicated that they had already set up licensing schemes, which were, however, not applicable to the education sector. They would actively consider setting up licensing schemes suitable for the education sector. He

pointed out that there were different types of educational establishments in Hong Kong, e.g. ordinary grammar schools, professional schools of singing etc. Although they did not represent the views of the copyright owners worldwide, he personally held that the industry had already set up licensing schemes for many years to process general applications for using the musical recordings. He wondered why, instead of maintaining the status quo, we had to formulate the Guidelines and adopt another approach to address the issue. As a matter of fact, they were already acting as an agent for dealing with most copyright songs.

51. The representative of MPA said that they represented seven Hollywood film companies but so far they had not received any applications from the education sector for using the film clips of the seven companies for instructional purposes. Their stance was that the education sector was welcomed to apply, where necessary, for using the film clips of these seven companies via them. All applications were subject to approval by these American film companies based on stipulated procedures, the first of which was title verification. The time required for approval was determined by each individual film company. As the operation of these companies was not under their control, and as a matter of fact, they had never received such applications from the education sector, they could not estimate the time required for approval. He reiterated that they could not grant licences on behalf of these seven companies. They had consulted these companies on the Draft Guidelines and would reflect to IPD the views received.

52. The representative of OUHK said that in his personal opinion, copyright works could be lawfully used through the following three channels -

- (1) to obtain permission through direct consultation with the copyright owner;
- (2) to apply for a licence to use a small portion (e.g. 10%) of the copyright work through the licensing scheme; and

- (3) to use a small portion of the copyright work (e.g. a film clip of 15 seconds in duration) pursuant to the statutory permitted acts. The extent of use was the smallest.

A licence fee was payable for the use described in item (2) above, while the use in item (3) was free of charge. If the use in item (3) had to be governed through licensing schemes, an insubstantial amount of licence fee would be collected, but with much trouble. The representatives of the relevant industries should consider what their stance and views were if their organisations were representing the relevant copyright owners. If they still insisted unanimously that licensing schemes should be adopted for even a small portion of copyright works, further discussion by the Working Group would be meaningless.

53. Mr. SELBY said that he had expected and informed the meeting that the current task of the Working Group was more difficult, involving a number of complicated issues. He asked the education sector whether there was a strong need for using a portion of sound or film recordings (not exceeding 15 seconds in duration) for instructional purposes. If so, the discussion could be continued.
54. The representative of HKSPSC emphasised that primary teachers had a strong need in this respect. It would be impractical to ask them to apply for licences before using all copyright works.
55. The representative of MPIA remarked that they were not unwilling to cooperate with the education sector. However, due to the unique nature of the industry, they insisted that the issue be governed through licensing arrangements. He reiterated that they did not represent all film companies. However, in order to cater for the needs of the education sector, they could accept certain compromise solutions. For example, they could conduct a large-scale consultation and draw up a list of films in conjunction with the industry. The list would set out in detail the information on the films and their copyright owners as well as the conditions for allowing the education sector to store and distribute the film clips via the intranet. The education sector could

use a certain film clip to a reasonable extent pursuant to the conditions laid down on the list. Teachers only had to report on the use but needed not apply for a licence in advance on every occasion. This could streamline the application procedures of a general licensing scheme, but was more desirable than granting across-the-board exemptions as proposed in the Guidelines. He also pointed out that certain film companies might not agree with this idea. Consequently, there might not be many films on the list, which would hence be not comprehensive enough.

56. Mr. SELBY hoped that the representative of MPIA would consider the situation as mentioned in Agenda Item III (1)(b).
57. The representative of HKACE added that, relatively speaking, the 15-second film clip as mentioned in Agenda Item III(1)(b) just accounted for a small portion of the whole film. If teachers, in appreciation of a certain film, considered that it was worth recommending to students, they would simply purchase it for showing to students with elaboration.
58. The representative of HKSSSC pointed out that PowerPoint presentation was just one of the means of teaching. It was not common for teachers to embed a portion of recorded music or film in PowerPoint presentations. Besides, not many film clips would be stored in primary and secondary schools. Being law-abiding institutions, schools would closely monitor their intranets, update their webpages and prevent illegal website links. If the issue was made so complicated that teachers were required to make a lot of efforts in verifying the copyright owners and applying for a licence for using a small portion of copyright works, teaching activities would be impeded. He opined that simple guidelines could protect the education sector's limited right of using the copyright works to a reasonable extent.
59. The representative of the International Federation of the Phonographic Industry (Hong Kong Group) Limited responded that the licensing scheme provided a channel for obtaining legitimate

information. He said that ninety-nine percent of the information on the internet was pirated. The Guidelines, if approved, would indirectly encourage the use of pirated information on the internet.

60. The representative of JULAC asked the representative of the International Federation of the Phonographic Industry (Hong Kong Group) Limited about the time required for setting up the licensing arrangements.
61. The representative of the International Federation of the Phonographic Industry (Hong Kong Group) Limited stated that in Hong Kong it would take about six months to set up the licensing arrangements for genuine educational purposes. As for licences involving foreign copyright owners, they could only act as an agent for dealing with such matters.
62. The representative of JULAC enquired whether the copying under Section 41 of the Copyright Ordinance covered all forms of copying. She further enquired whether, even where no licensing scheme was available, the education sector could copy/play in public sound recordings and films etc. pursuant to the provisions of the Ordinance and the permitted acts under other related provisions without infringing the copyright of the works in question. Besides, she also asked whether storing a portion of a copyright work on the school intranet was a statutory permitted act.
63. Mr. SELBY replied that in general, the word “copying” was not necessarily confined to photocopying. It might also include copying by electronic means (e.g. by scanning). Statutory permitted acts were those allowed on the premise that copying of genuine works was involved. Subject to limited conditions, the Copyright Ordinance in Hong Kong allowed teachers to perform certain acts without infringing copyright. As to whether it was legal to store a portion of a copyright work and distribute it to students via the school intranet, he could not give an answer to this question personally.

64. The representative of HUCOM said that, as far as he understood, making available of copies of a copyright work to the public (via the internet) was an act restricted by copyright; and the term “public” generally referred to groups of people (other than people in domestic or quasi-domestic circles).
65. The representative of ACTPO said that electronic copyright was a new matter, of which no experience from other countries could be drawn. He did not know who, among the members, would be very knowledgeable on that subject. He considered that electronic copyright involved many complicated issues. It was not the right time for discussion now. He could understand that while some people had the subjective wish of handling the matter concerning electronic copyright, the objective difficulties could not be overlooked. Therefore, it was more appropriate to deal with this matter after there was a better understanding of the subject at a mature stage. He hoped the chairman could understand the difficulties involved.
66. Mr. SELBY said that he recognised that not all matters could be handled by the subjective will. He suggested that the Working Group should begin to examine the specific content of the Draft Guidelines (e.g. the definition of the intranet) at the next meeting. He hoped that members would take an active attitude towards drawing up the Guidelines. He also pointed out that the representatives could consider the idea similar to a “blanket licence” put forward by the representative of MPIA.
67. The representative of MPIA said that he had proposed drawing up a list of films. There would not be any problem if teachers used a certain film clip pursuant to the conditions laid down on the list.
68. The representative of the MPA enquired if it was necessary for teachers to embed film clips in PowerPoint presentations. He pointed out that in fact schools could use genuine copies of VCDs or DVDs, and when necessary, show the film directly to students.

69. Mr. SELBY explained that film clips were embedded for elaboration purposes in the course of teaching.
70. The representative of the MPA enquired if teachers could show the presentation materials to students again instead of storing such materials on the school intranet.
71. The representative of the JULAC said that from her own teaching experience, students always asked to view again after class the presentation materials shown during the lesson. Therefore, there was a practical need for storing such materials on the school intranet.
72. The representative of OUHK was of the view that if the film and musical industries would provide free licensing arrangements to the education sector and allow the use of copyright works to a great extent, teachers would be very glad to see that and would welcome that. But he still opined that since the use of copyright works to a reasonable extent was permitted under the law, it should not be necessary to obtain licences. Otherwise, it would be meaningless to set up the current Working Group.
73. Mr. SELBY pointed out that the “blanket licence” allowed users to use the relevant copyright work without applying to the industry for a licence before using it every time.
74. The representative of MPIA added that he had reservations about the “blanket licence”, but the correct term could be discussed later. He said that his preliminary idea was to prepare a list setting out both the films that the copyright owners agreed to lend to the education sector free of charge and those that the education sector could use by paying some fees (with scale of fees attached). Under this system, teachers did not have to apply for a licence every time. He added that as this was only a preliminary idea, more time was needed for planning purpose. But the sole objective of the entire system was to facilitate the use of copyright works by the education sector. This could be tentatively called a “pre-conditioned” licence.

75. The representative of HUCOM welcomed the joint efforts made by the industry and the education sector to facilitate teaching. Their discrepancies just lay in the approach to be adopted. He hoped that representatives of the industry could consult the relevant copyright owners to see how far they would compromise over the use of their works for instructional purposes. Complicated application procedures would only impede the teaching activities. He said that, for example, some time ago a professor from the U.S. had given a talk on the development of intellectual property in the U.S. at the University of Hong Kong. During the talk, the professor had shown the audience three pieces of advertisements from the Apple Computer Inc. without having to obtain a licence from the copyright owner in advance. He opined that if it was necessary to obtain a licence in advance even for using a copyright work to a reasonable extent for educational purposes, teachers would not be able to convey important messages to students in a timely manner, hence affecting the quality of teaching.
76. Mr. SELBY suggested the publishing industry to brief the Working Group its views on the question mentioned in paragraph 28 above at the next meeting. At the same time, the Working Group would begin to examine the Draft Guidelines. He said that the next meeting would take place on 16 May 2003 (Friday) at 3:00 p.m. at IPD.
77. The representatives of CITB and EMB had nothing to add. Mr. SELBY thanked the participants for attending the meeting and declared the meeting closed.

*The meeting closed at 5:10 p.m.*