

(Translation)

Notes of the 7th 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 31 July 2003(Thursday)
at the Intellectual Property Department
Room 2501, 25th Floor, Wu Chung House,
213 Queen’s Road East,
Wanchai, Hong Kong

Present : Representative of Union of Government Primary School
Headmasters and Headmistresses

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 Professional Teachers’ Union
(HKPTU)

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

Representative of Hong Kong Copyright Licensing Association
(HKCLA)

[In attendance for meetings of the Working Group only]

Representative of Hong Kong Library Association (HKLA)

Representative of Hong Kong Publishing Federation Limited
(HKPFL)

Representative of the Anglo-Chinese Textbook Publishers
Organization (ACTPO)

Representative of The Hong Kong Academy for Performing Arts (HKAPA)

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

Representative of Music Publisher Association

Representative of Hong Kong Education City Limited (HKECL)

Ms. Rosanna YU
Commerce, Industry and Technology Bureau (CITB)

Mr. Simon IP
Education and Manpower Bureau (EMB)

Mr. Peter CHEUNG (Convenor)
Intellectual Property Department

Ms. Brenda WAN (Secretary)
Intellectual Property Department

Absent with
apologies :

Representative of Grant Schools Council (GSC)

Representative of Hong Kong Subsidized Primary Schools Council (HKSPSC)

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

Representative of Joint University Advisory Committee (JULAC)

Representative of Hong Kong Educational Publishers Association (HKEPA)

Representative of Television Broadcasts Limited (TVB)

Representative of Hong Kong Cable Television Limited (HKCTV)

Representative of AOL Time Warner

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

Representative of Motion Picture Industry Association Limited (MPIA)

Representative of Motion Picture Association (MPA)

Representative of Business Software Alliance (BSA)

The meeting commenced at 10:05 a.m.

Agenda Item I

1. Mr. Peter CHEUNG introduced himself and welcomed all to the meeting. Members were happy that Mr. Peter CHEUNG acted for Mr. SELBY as convenor for the meeting.
2. Mr. Peter CHEUNG informed members that Mr. Victor CHAN of the Motion Picture Association apologised for his absence from the meeting and that the representative of HKRRLS had formally withdrawn from the Working Group. He then read out the letter from HKRRLS to the Intellectual Property Department.

“We regret to inform you that we have decided to withdraw from the Working Group on ‘Development of Non-statutory Guidelines for Copying and Distribution of Works in an Electronic Environment by Not-for-profit Educational Establishments’ as we do not have a mandate in relation to digital rights.

For your information, overseas publishers associations such as the Association of American Publishers (USA), Publishers Association (UK) and International Association of Scientific, Technical and Medical Publishers (Netherlands) are of the opinion that the use of their members' copyright materials in an electronic environment should NOT be governed by fair use.”

3. Mr. Peter CHEUNG said there were three problems in formulating the Guidelines:

- i. A legal framework had already been provided under the Copyright Ordinance 2000. The HKSARG was required not only to comply with the international legal principles but also to bear legal obligations.
- ii. The education sector considered the statutory permitted extent very vague and they could not rest assured in using the works. He pointed out that if the process of using the works affected the normal exploitation and legitimate interests of the copyright owner, it was considered to have been exceeded the permitted extent set out by the Copyright Ordinance and the user had to obtain permission to do so. In addition, it was operationally immature to levy collective royalties. As far as showing or playing of the works in public was concerned, there were organizations like CASH and IFPI dealing with issues in this respect. As for copying and distribution of works in an electronic environment, barely were we able to find an organization dealing with issues in this respect. He highlighted that this was not a unique

problem existing only in Hong Kong but a global one.

- iii. To formulate effective non-statutory guidelines, consensus had to be reached with different stakeholders and representative copyright owners had to be involved in the discussion. In objective reality, the values of the users were different from those of the copyright owners, and the copyright owners present were not fully representative of the industries. Moreover, copyright owners have the legal support and the results of their efforts should be respected by the users.
4. Mr. Peter CHEUNG said members might feel doubtful of the need to provide a licensing scheme. In his opinion, a user's need might go beyond the statutory scope. A blanket licence could not only reduce the doubts of the users but also recognize the owners' entitlement to the copyright.
5. Mr. Peter CHEUNG advised that if copyright owners were not representative enough in involving in the formulation of Guidelines or no consensus could be reached, we could still set out the aspirations of the users and:
 - i. inform copyright owners of such aspirations for their information and further consideration;
 - ii. establish an organization or a system for levying of collective royalties;
 - iii. consider whether legislation should be enacted within the permitted

framework of international law.

Agenda Item II

6. The Secretary said the mark-up version of the notes of meeting incorporating the amendments proposed by members had been circulated to them for perusal. She asked if further amendments were required.
7. The notes of the 6th meeting (Chinese version) were confirmed by members.

Agenda Item III

8. The notes of the 5th meeting (English version) were confirmed by members.

Agenda Item IV

9. The Secretary explained that the revised paper on “Copying and Distribution of Works in an Electronic Environment by Not-for-Profit Educational Establishments” consolidated the views of the education sector. She reminded members of the Working Group that the publishing industry might not agree to their views, but the Guidelines could be further revised through discussion.
10. The representative of OUHK asked why textbook had not been mentioned in paragraph 2 of the paper.
11. Mr. Peter CHEUNG replied that works set out in paragraph 2 were adopted

from the classification of copyright works. He explained that textbooks were classified as literary works as the scholarly element of the copyright works would not be considered.

12. The representative of EMB pointed out that the requirement of using individual passwords to gain access to the Intranet as mentioned in paragraph 10 was stipulated according to the TEACH Act of the U.S. Distance learning students might be taking different courses so they needed to have their own individual accounts in order to access relevant information. However, the current situation in primary and secondary schools was different. For some schools, the arrangement for each class to use the same account for the same subject might have already met the basic security requirement. It would be difficult for primary and secondary schools to comply with the requirement that every student should use a separate password.
13. The representative of HKPFL responded that sharing accounts would not pose any problem to the users. Instead, there would be difficulties concerning information management since the management side would have no idea about the extent to which the password was used. The use of one single password by 40 or 100 or 1,000 students might possibly mean that there were 5,000 or even 10,000 students sharing the information. He emphasized that logging in with two identical passwords should not be allowed. This was the minimum protection to the industry.

14. Mr. Peter CHEUNG said that he wished to get the real picture and understand the problems encountered by the education sector.
15. The representative of HKACE responded that it was somewhat difficult for primary and secondary schools to manage independent accounts. He said, for example, there was a certain file on the server, which could only be accessed by Class 1A. If both Class 1A and Class 1B wanted to access the file, the setup of the account had to be changed. In less-developed schools, this would pose problems. He admitted that not much importance was attached to the issue in the previous meeting.
16. The representative of HKPFL opined that should the Guidelines be formulated, the interests of both parties had to be balanced. He also pointed out that Web-SAMS (School Administration & Management System) was a management system. An independent account could be set up for each subject. It would be more effective if the function of account management would be added in the system. He remarked that materials of two publishers might be needed for a subject of primary or secondary schools. Therefore, to conform to the principle of fair-use, different accounts should be used in respect of different subjects. In this way, copyright owners could take the ease in allowing the use of materials by schools.
17. The representative of OUHK responded that as nowadays students use a single account to access all information, the education sector could inculcate students with the concept of respecting the works of others and remind them

not to disclose the account passwords to others. As a matter of fact, the current practice of “one password for one person” had shown that the education sector was rather prudent in dealing with copyright works. He supported the practice put forth by HKPFL and held that the education sector was heading towards that direction.

18. Mr. Peter CHEUNG remarked that the views of both parties would be recorded. He personally took the view that measures in line with technological development should be adopted.
19. The representative of HKACE opined that if a consensus could not be reached with the parties involved, the paper could be served as a starting point for discussion between the education sector and copyright owners provided that the former did not object. Besides, this paper could be annotated to explain the possible management problems encountered by individual primary and secondary schools.
20. Mr. Peter CHEUNG agreed. He thought that members could help narrow down the gap between themselves if they put forward more views.
21. The representative of HKPFL pointed out that the education sector could build in certain account management function in SAMS. For example, HKECL possessed a number of platform functions and database could be added for account management purposes. Since HKECL was a non-profit-making organization, schools could take their ease to let it manage the

students' accounts. The education sector, particularly primary schools, would benefit most from this practice.

22. The representative of ACTPO pointed out that if DRM (Digital Rights Management) were not yet matured technologically, the formulation of guidelines for fair use on electronic authorization would meet with great resistance. He noticed that some copyright owners quitted one after another due to the lack of protection. He considered that thorough discussion on the relevant mechanism of DRM would help alleviate the anxiety of copyright owners.
23. The representative of HKECL provided information on the relevant mechanism and school management:
 - (1) The database of HKECL was linked to over 1,300 students' accounts;
 - (2) DRM was an issue of great concern. Relevant technology and software were already available. HKECL was preparing some pilot schemes. If suitable security measures and complementary facilities were in place and consensus reached with parties concerned, the scheme could be implemented speedily.
24. The representative of HKPFL pointed out that as other media had withdrawn from the discussion one after another, the industry was worried that only the education sector and the publishing industry would finally be left behind to

formulate the Guidelines on digital environment and fair-use. The Federation had great pressure in conveying the information to its members. He said that the majority of non-textbooks were published overseas, the discussion, however, was limited within the scope of their copyright; “Harry Porter” or books published by Crown Publishing (HK) Ltd., Pearson, DK or Longman, for examples, were outside the scope of discussion. He opined that technical problems, for example how should the term “course” be defined, were also encountered during the formulation of the previous Guidelines. However, photocopying of printed works was a one-off action, while copying under the digital environment could be performed anytime and anywhere.

25. Mr. Peter CHEUNG said that such issues were discussed during the formulation of the previous Guidelines for printed works and he agreed that the situation was more complicated under the digital environment.
26. The representative of HKCLA asked whether newspaper was included in the paper.
27. Mr. Peter CHEUNG replied that newspaper was classified as literary works or art works, and the works in the paper were categorized according to the types of copyright.
28. The representative of OUHK said that the scope of non-textbooks was very wide, which includes, for example, multi-media works. He suggested that “non-textbooks” should be amended to read “printed works which are non-

textbooks” so as to include works like newspaper and magazines.

29. The representative of HKCLA was of the opinion that it would not be appropriate to include newspaper in paragraph 6 of the paper, since the unit of counting for newspaper is “item”, which is different from that of books in general.
30. Mr. Peter CHEUNG suggested replacing “non-textbooks” with “non-textbooks, including newspaper” to meet the needs of the education sector. The participants raised no objection.
31. The representative of EMB held that copying segments of sound and film recordings for 15 seconds as mentioned in paragraph 15 was insufficient. He pointed out that the purpose of copying by teachers was to bring the external environment into the classroom. For example, teachers showing segments from the programme “Under the Lion Rock” in class might wish to arouse students’ discussion on the then living environment featured in the programme. He said that ETV allowed the copying of segments not exceeding 15 minutes in duration for instruction purposes. He asked whether the time limit for copying could be extended to 15 minutes.
32. Mr. Peter CHEUNG responded that the duration of an advertisement usually ranged from 15 seconds to 3 minutes. Under the prevailing new trends, a 15-minute clip might already be a complete film itself. He invited other

members' views on the issue.

33. The representative of OUHK pointed out that a segment with duration of 15 minutes might well involve the production of the whole programme. Users of the segments should obtain prior permission. The education sector was allowed to use segments of programmes produced by RTHK due to some licensing arrangements. He proposed that the time limit should be set at a range from 15 to 30 seconds.
34. Mr. Peter CHEUNG explained to members that there was a case about broadcasting of a football match. One party purchased the broadcast right of a football match while the other party broadcast segments from the match. The outcome of the litigation was that limited broadcast of segments was acceptable.
35. The representative of HKECL held that it was difficult for the industry to reach a consensus on the request for copying segments of 30-minute duration because the education sector lacked sincerity. She considered that the 30-second duration was the limit. She pointed out that the website of HKECL contained segments of over 1,000 hours in duration for the use of the education sector. She hoped that users would respect copyright owners.
36. The representative of HKACE stated that teachers could play VCD directly in lessons and that there was no need to embed the films in the PowerPoint.

37. The representative of HKECL opined that the industry was willing to allow the education sector to use their copyright works. They were just worried about the piracy problem and were afraid that piracy activities would be encouraged after the formulation of the Guidelines.
38. The representative of HKSSSC held that the 15-second duration was insufficient. He pointed out that a number of members opined in the previous meeting that the 15-second duration was too short. He suggested that the duration be extended to 30 seconds or one minute.
39. Mr. Peter CHEUNG asked members whether or not they agreed to set the limit of copying segments at 30 seconds. Members agreed.
40. The representative of HKPFL pointed out that the part on storage period was very controversial. The industry did not prefer an across-the-board solution to the problem of copying at university, secondary and primary school levels. They were of the opinion that if copyright works were stored for a year, they would be subject to unlimited use. Thus, the period should be set on the basis of “week”.
41. The representative of HKCLA pointed out that some members of the Association shared the same view.
42. The representative of ACTPO said that they would like the storage period be set at a week.

43. Mr. Peter CHEUNG pointed out that the storage period for recorded television programmes was in general 28 days, after which the segments copied had to be deleted. He thought that with respect to learning, understanding was the most important thing. As such, a long storage period might not be necessary.
44. The representative of OUHK mentioned that in addition to learning, students had to study for examinations. Nevertheless, he considered a storage period of 10 months enough.
45. The representative of HKACE pointed out that the one-year storage period suggested by the education sector actually referred to one academic year. Copies of copyright works were usually stored on the Intranet at different times of the academic year. Therefore, the actual storage period was normally less than a year.
46. The representative of HKPFL stressed that with respect to the use of copyright works, the principle of fairness hinged on the concept of “spontaneity”. If the materials were not used spontaneously, licence or authorization had to be obtained. The storing of materials on the Intranet for a period long enough to facilitate students’ revision for their examinations was already outside the scope of “spontaneous use”. He reiterated that systematic copying had already gone beyond the principle of fairness.
47. The representative of OUHK opined that systematic copying did not exist.

He suggested the expression “on need basis” be added under the item storage period.

48. The representative of HKPFL considered it difficult to define “on need basis ” amid the digital environment. He said that both Britain and the U.S. put an emphasis on DRM because storage period was a key issue.
49. The representative of HKACE agreed to delete the materials uploaded onto the Intranet. However, he considered a regular backup necessary for internal references. It had nothing to do with distributing the materials.
50. Mr. Peter CHEUNG said it was illegal to make copies of copyright works. Users were allowed to browse but not to make archive copy. The Secretariat would amend the wording of paragraph 14 and circulate the revised version for members’ reference.

AGENDA V

51. Mr. Peter CHEUNG said that the blanket licence in question was a draft only and could be amended substantially after discussion. He explained that the licence had to be obtained if the scope went beyond the bounds of the law. The blanket licence aimed to make concrete the need of the education sector and the scope acceptable to copyright owners. He told the Working Group members that the blanket licence could be put into practice, fee charging or otherwise. With a nominal fee of one dollar, the publishing industry could

sign a licensing agreement.

52. The representative of OUHK enquired whether the Guidelines would be replaced by blanket licence. He opined that the scope of the licensing arrangement was not extensive. He asked whether the licence would be signed by a primary school A with a publishing company B or signed in a collective form.
53. Mr. Peter CHEUNG said that the formulation of the Guidelines would continue. He believed that signing of the licence could start with individual schools and the publishers, and then extended to a large scope such as one signed between the international organizations of electronic copyright owners and the education sector.
54. The representative of OUHK suggested that the term “Course Pack” in paragraph 2.3 be deleted as it did not apply to the electronic teaching environment.
55. Mr. Peter CHEUNG agreed to delete paragraph 2.3.
56. The representative of CASH suggested adding the expression “non-profit making educational organizations” before the term “Intranet” in paragraph (1)(c) since the Intranet could include other networks.
57. Mr. Peter CHEUNG agreed to make amendments to those areas, which were

unclear.

58. The representative of HKCLA said that though the licensing arrangement was made for the sake of meeting teaching needs, he considered the term “blanket” too extensive. Copyright owners might find it difficult to accept. She suggested adopting usage a differentiated unit. Moreover, while the licence agreement was targeted for educational organizations on which nominal fees might be charged or even waived eventually. The spirit of a licensing agreement should include a fee-charging requirement. As for obligations of the Licensor, the wording was considered not concrete enough. It was suggested that liability upon breaching the agreement be spelt out. Were the licence agreement be terminated, the time for serving notice should be clearly stated, such as an advance notice of 30 days. The requirement to delete copies of the files should be clearly stated as well. The last suggestion was the inclusion of reporting system in the agreement. She considered that both parties should be protected by the licensing agreement, but this version of the agreement failed to fully protect the interest of copyright owners.

59. The representative of HKPTU said, as far as he knew, there was a difference between blanket licence and agency copyright. He remarked that the agreement could be considered a licensing agreement only if the licensor clearly indicated that he was the agent of the owner’s copyright. He considered it inappropriate to adopt blanket licensing at the present stage.

60. Mr. Peter CHEUNG agreed to amend the term “blanket licence” to read “licensing agreement”.
61. The representative of HKPFL enquired who would be the one to sign the agreement, the teacher, the principal or the school supervisor.
62. The representative of HKSSSC said that the Council could sign the agreement on behalf of all the members but individual schools had to accept liability.
63. The representative of OUHK said the schools could continue to use the information for a specified course after the licensing agreement expired, provided that other courses could no longer use such information. This was a relatively appropriate arrangement.
64. The representative of EMB said that in the past the Council acted as the intermediary in the signing of the licensing agreement between the schools and HKRRLS. The liability, however, rested on individual schools.
65. The representative of ACTPO opined that the planned copying arrangement was inconsistent with the “spontaneous“ provision and therefore the provision concerned should not be included in the licensing agreement.
66. The representative of OUHK considered it impossible for most of the teachers to create a web page within two days and make good use of it. Therefore the “spontaneous” element did not exist amid the environment of

the Internet.

67. Mr. Peter CHEUNG opined that the licensing agreement not only could recognize the rights of copyright owners but also satisfy the needs of users. He agreed that the words like “spontaneous” should be deleted. The Secretariat would distribute the revised version to members of the Working Group in due course.

AGENDA VI and VII

68. Mr. Peter CHEUNG briefed members on the paper “Licensing framework and views of education sector” tabled at the meeting. He mentioned that there was no organization in Hong Kong, or even the whole world, which levy royalty on behalf of the electronic media. He put forward two suggestions:
- i. To incorporate the views into the provisions of the licensing agreement after detailed discussion;
 - ii. To discuss this issue together with the Agenda item VII “The Way Forward”, as it was a worldwide issue and should be resolved by worldwide solutions. The current solution was to let users, copyright owners and the governments discuss the issue via the regional conferences held in Hong Kong by WIPO (World Intellectual Property Organization). He hoped to raise the perspective and difficulties

involved to the international level.

69. The representative of OUHK opined that should the issue be raised to the international level, some members of the Working Group who were academics would not be able to take the stand for the views of the Government. He cited the international on-line seminar titled “Commonwealth Learning” held half a year ago as an example. The seminar could be raised to a high profile but not necessarily with concrete results.
70. The representative of HKPFL considered that the Government had already responded actively to the sector over the issue. He supported the idea of the Intellectual Property Department hosting an international conference on the concept of blanket licensing to pool the copyright management agencies from all over the world. He believed that Pearson and Simon & Schuster would probably send over representatives, which would be beneficial to Hong Kong. He pointed out that the publishing sector was disunited and publishers for textbooks were deprived of any protection from the Government. He suggested that the meeting be divided into two levels, namely international and local, so that the education sector would keep abreast of the latest trend of digital teaching. As plenty of materials from China and Taiwan were in use in Hong Kong, he suggested that a pre-meeting be held by the Government for the representatives from Chinese speaking regions. This served as the basis for discussion at the international level. The publishing

industry very much hoped that the Government would invite representatives from AOL, Yahoo etc. to the conference to enrich the knowledge of participating members.

71. Mr. Peter CHEUNG concluded that the legal framework of copyright was based on international legal obligations. Copyright had been included in WTO Agreement on Trade-Related Aspects of Intellectual Property Rights. While education played an important role in the community, intellectual property and economic benefits were equally important. He opined that intellectual property should be managed and used by the owners. He hoped that a consensus could be reached with the education sector through consultation. The way forward was to solicit sponsorship from WIPO for a conference or the Intellectual Property Department co-organized one with WIPO. The Intellectual Property Department had already extended an invitation. He shared the view of the representative of HKPFL that the conference should be held in the Greater China, to serve as a cohesive force. However, he worried that the situation might vary with different regions and other regions might have the impression that Hong Kong was prepared to play the role of the pathfinder in this. He considered the two options feasible but the most important concern was to win the support from participants of the meeting.

72. Mr. Peter CHEUNG added that a Technology Hub or an IP Trading Hub could be set up in Hong Kong. He was of the view that it would be quite

desirable if both the education sector and the publishing industry could gradually come to a consensus, go in the right direction and that certain results could be achieved in three to five years' time. He indicated readiness of the Intellectual Property Department to take up the task but said that support from participants of the meeting was required. He encouraged members to take part in these international conferences. He said that the conferences could possibly be held within this financial year. The Secretariat would provide members with relevant information in due course.

Agenda VIII

73. Mr. Peter CHEUNG said that the paper would be re-circulated to members after being amended by the Secretariat. He asked members of the Working Group if they considered it necessary to hold further meetings.
74. The representative of EMB asked if the Guidelines would be amended and circulated for members' information.
75. In response, Mr. Peter CHEUNG said that the difficulty of formulating the Guidelines arose from the lack of consensus with copyright owners. If the Guidelines were formulated unilaterally only under wishful thinking, copyright infringement might happen.
76. The representative of HKACE enquired if the Guidelines would be replaced by blanket licence. He also asked if the licence was a kind of short-term

arrangement.

77. In response, Mr. Peter CHEUNG replied that it was the requests of the education sector that Guidelines be formulated. To formulate the Guidelines in a cavalier manner without the consent of the copyright owners might result in liability.
78. The representative of HKACE expressed regret over such results considering the time spent over discussion. However, as the circumstance forbid, there was no other alternative but to terminate the discussion. He had to accept it.
79. The representative of HKCLA indicated that she was in attendance only as the Association had no electronic rights. Members of the Association had not yet come to any consensus as well. She hoped that new developments would come up later.
80. The representative of HKPFL indicated that the textbook organizations raised no objection to the use of their copyright works for teaching purposes. The problems they currently encountered were only restricted to technical ones. On the other hand, there were more than 300 publishers, magazine companies and newspapers, the issue on non-textbook copyright thus became more complicated. He very much hoped that these organizations could initiate direct dialogue with the education sector via HKPFL. HKPFL being a neutral organization, he suggested that HKECL play an intermediary role so

that achievements could be made.

81. Mr. Peter CHEUNG was of the view that HKPFL could collaborate with the users in the mode of partnership. This helped to facilitate Hong Kong to become an operating hub of intellectual property.
82. The representative of CASH pointed out that the gap between the users and copyright owners could be narrowed. She suggested that unofficial meetings based on actual needs and rights conferred by the law be held by the Intellectual Property Department. This would surely achieve more with less.
83. Mr. Peter CHEUNG agreed to organize informal meetings to enhance discussion.
84. The representative of HKPTU opined that no further meetings should be held if no new developments came up. He asked if the information and paper should be submitted to the plenary meeting for endorsement.
85. Mr. Peter CHEUNG said that all the information could be submitted to the plenary meeting if deemed necessary or paper meetings could be held.
86. The representative of Union of Government Primary School Headmasters and Headmistresses hoped to strive for a longer storage period.
87. In response, Mr. Peter CHEUNG said that more attention could be paid to relevant provisions pertaining to primary schools.

88. The representative of HKTLA considered that it would be more convenient for large-scale organizations to sign the licence agreement on behalf of the schools. It would be difficult for the agreements to be signed between individual schools and the publishers.
89. The representative of HKLA opined that the original Guidelines were not the most appropriate mechanism. The licence agreement spelt out the needs of users, which was more acceptable.
90. The representative of HKSSSC expressed disappointment since the education sector had high expectations that the Guidelines would be formulated towards the end of the summer vacation. He opined that the publishing sector needed not worry too much as the education sector paid much heed to personal integrity. If a blanket licence was to be signed, the Council was prepared to sign the agreement on behalf of the schools on condition that individual schools had to accept liability. He hoped to start dialogue with the publishing sector to resolve part of the problems.
91. Mr. Peter CHEUNG said that the licence agreement could be amended so as to achieve better results. He considered that users would be empathic and would think about whether his scope of use was reasonable.
92. The representative of OUHK emphasized that he was not the only member who did not agree to have the meeting terminated. He expressed disappointment over the outcome of the meetings. He considered it

unreasonable to terminate the discussions on the Guidelines because of the absence of overseas representatives. No overseas representative took part in the formulation of Guidelines on printed works as well. He opined that the meeting should not be terminated simply because some members retired from the meeting. He suggested further meetings be held after the scope of the Guidelines had been narrowed down. Meanwhile, he expected the Intellectual Property Department to initiate a dialogue between the education sector and the publishing industry. He was of the view that the licence agreement might not be exhaustive about the rights of the education sector conferred by the law. He also expected the Working Group provide guidance on the usage of copyright works for teachers.

93. In response, Mr. Peter CHEUNG said that administrative measures instead of legislative measures were currently adopted in the formulation of Guidelines. The consensus among various interest groups was therefore necessary. Should the Guidelines be formulated in a cavalier manner, the education sector not only would be deprived of the protection of the law, but might also incur civil or criminal liabilities. He added that paper meeting could be held instead, and hoped that the education sector would understand the current situation.

94. The representative of OUHK enquired if further meetings would be arranged and assistance be provided for the Working Group members by the Intellectual Property Department.

95. Mr. Peter CHEUNG responded by stating the responsibilities of the Intellectual Property Department, which included the formulation of policy, legislation, registration of trademarks, patents and designs. Other than these, the Department also took up promotion and coordination duties. This was the reason why the Department would like to assist various interest groups to reach a consensus.
96. The representative of HKPTU opined that the formulation of Guidelines this time differed from that of the previous one. Views were divided over the definition of “Intranet”. Consensus might have been reached in a few years’ time when science and technology became sophisticated. He personally understood the difficulties encountered by the Intellectual Property Department.
97. The representative of OUHK reiterated that it was made known to the meeting at the early stage that no overseas publishers would take part in the discussion and at present, a certain degree of consensus was reached. He opined that the Guidelines could be discussed in detail and then submitted for approval.
98. Mr. Peter CHEUNG reiterated that it was of paramount importance that the consensus of various interest groups was obtained. He found that the number of representatives attending the Working Group meetings in formulating the Guidelines for printed works was relatively representative. He reiterated that the HKPFL was unable to represent most of the copyright

owners.

99. The representative of OUHK suggested that the Guidelines be circulated to more organizations so that more views would be collected.
100. Mr. Peter CHEUNG suggested that the requests of the education sector be submitted to the plenary meeting for the consideration of copyright owners concerned. He opined that the plenary meeting could be held on 21.8.2002 or 22.8.2003, if necessary.
101. The representative of HKPFL said that at the first meeting of the Working Group, he had already relayed the views of his sector to the meeting that the formulation of Guidelines was not an easy job. He proposed to have the meeting suspended and to be resumed after the technology of DRM and Payment Gateway became sophisticated. When the time was opportune, invitation could be extended to Apple, EPA for joint discussion. He added that the sector expressed deep regret over the failure in formulating the Guidelines.
102. The representative of OUHK said that the Working Group could think about formulating the Guidelines tentatively and conducting a pilot scheme for six months or one year. If the trial run was considered successful, the Guidelines could be put to practice.
103. The representative of HKPFL pointed out that it was impossible for MNC

(Multi-National Corporation) to accept less than perfect Guidelines.

104. Mr. Peter CHEUNG pointed out that the Intellectual Property Department worked in a can-do culture and was prepared to take up more duties such as assisting the formulation of Guidelines despite heavy workload. However, he had to ensure that no teachers and students would incur liability in following the Guidelines. The tentative Guidelines had to be based on legal environment since the Government could not formulate irresponsible Guidelines. Should there be a quorum (half the number of members), the plenary meeting could be held.
105. The representative of HKPFL said that intellectual property being a complicated profession; the publishing industry bore certain pressure. A recent legal dispute involved two large-scale publishers. As for economic development, it was essential to attach due importance to intellectual property.
106. Mr. Peter CHEUNG briefly summed up the discussion by saying that there were inherent difficulties in formulating the Guidelines. He extended thanks to the representatives for attending the meeting and declared the meeting closed.

The meeting closed at 1:15 p.m.