

建議修訂《租用紅磡社區會堂設施指南和條件》

主旨

本文件旨在請成員考慮通過《租用紅磡社區會堂設施指南和條件》第 5(l)及 5(m)項目的修訂建議。

背景

2. 民政事務總署已就在社區會堂／社區中心表演有版權的文學作品和音樂作品、播放或放映錄音製品、音樂錄像和卡拉 OK 錄像製品，與香港作曲家及作詞家協會有限公司、香港音像版權有限公司和香港音像聯盟有限公司簽訂特許協議。申請人如在社區會堂表演、播放及／或放映的版權作品由該三家版權特許機構控制或管理，而其表演、播放及／或放映該等作品並非相關特許協議所豁除，由 2014 年 2 月 1 日起，申請人無須另行向上述機構申請特許。基於上述情況，《租用紅磡社區會堂設施指南和條件》第 5(l)及 5(m)項須作出修訂。

3. 《租用紅磡社區會堂設施指南和條件》第 5(l)及 5(m)項目修訂建議如下：

項目 5(l)	修訂建議
申請人保證： (i) 申請人不得在社區會堂或其任何部分使用(不論屬表演、放映或播放或其他方式)任何版權作品(包括但不限於歌詞、音樂、預錄音樂、音樂錄像及卡拉 OK 錄像)，除非申請人已自行支付費用及開支以取得並備存有關版權擁有人、特許機構(包括香港音像聯盟有限公司、香港音像版權有限公司、香港作曲家及作詞家協會有限公司，按何者適用而定)或其他機構或人士所規定或必要的一切所需批准、許可證或牌照； (ii) 在使用社區會堂期間，申請人不得及須確保其獲授權使用者不會進行或作出任何侵犯任何人知識產權或任何其他權利的表演或作為。	民政事務總署已與香港作曲家及作詞家協會有限公司、香港音像版權有限公司和香港音像聯盟有限公司就在紅磡社區會堂表演由該三家機構控制或管理的版權文學作品和音樂作品、播放或放映錄音製品、音樂錄像和卡拉 OK 錄像製品簽訂特許協議。申請人如在紅磡社區會堂表演、播放及／或放映的版權作品由該三家版權特許機構控制或管理，而其表演、播放及／或放映該等作品並非相關特許協議所豁除，申請人無須另行向上述機構申請特許。豁除事項載於附件 V。申請人不得妨礙、阻礙或阻止上述機構為着行使相關特許協議所訂進入場地的權利(如有)而進入申請人使用的紅磡社區會堂的任何地方。 除第 5(l)條另有規定外，申請人不得在紅磡社區會堂或其任何部分使用(不論屬表演、放映或播放或其他方式)任何版權作品(包括但不限於歌詞、音樂、戲劇、預錄音樂、音樂錄像、卡拉 OK 錄像及影片)，除非申請人已自行支付費用及開支以取得並備存有關版權擁有人所規定或必要的一切所需批准、許可證或牌照。 在使用紅磡社區會堂期間，申請人不得及須確保其獲授權使用者不會進行或作出任何侵犯任何人知識產權或任何其他權利的表演或作為。
The applicant warrants that: (i) The applicant shall not use (whether by performing, showing or playing or otherwise) any copyright works (including but not limited to lyrics, music, recorded music, music videos and karaoke videos) in the HHCH or any part thereof, unless the applicant has obtained and maintained at its own cost and expense all necessary	The Home Affairs Department has entered into licence agreements with Composers and Authors Society of Hong Kong Limited, Phonographic Performance (South East Asia) Limited and Hong Kong Recording Industry Alliance Limited for the performance of copyright literary and musical works, playing and showing of sound recordings, music videos and karaoke videos controlled or administered by the three licensing bodies at HHCH. The applicant does not need to apply for an individual licence from these three

<p>approvals, permits or licences which may be required or necessary from relevant copyright owners, licensing bodies (including, if applicable, Hong Kong Recording Industry Alliance Limited, Phonographic Performance (South East Asia) Limited, Composers and Authors Society of Hong Kong Limited) or otherwise ;</p> <p>(ii) The applicant shall not, and shall ensure that its authorized users shall not, engage in any performance or do any act which infringes the intellectual property rights or any other rights of any person in the course of using the HHCH.</p>	<p>copyright licensing bodies if the copyright works to be performed, played and/or shown by it at HHCH are controlled or administered by these licensing bodies and its performance, playing and/or showing is not excluded by the relevant licence agreements. The exclusions in the relevant licence agreements are set out at <u>Annex V</u>. The applicant shall not hinder, obstruct or prevent these licensing bodies from entering any part of the HHCH used by the applicant for the purpose of the licensing body exercising its right of entry (if any) under the relevant licensing agreement.</p> <p>Subject to clause 5(l), the applicant shall not use (whether by performing, showing or playing or otherwise) any copyright works (including but not limited to lyrics, music, drama, recorded music, music videos, karaoke videos and film) in the HHCH or any part thereof, unless the applicant has obtained and maintained at its own cost and expense all necessary approvals, permits or licences which may be required or necessary from the relevant copyright owners.</p> <p>The applicant shall not, and shall ensure that its authorized users shall not, engage in any performance or do any act which infringes the intellectual property rights or any other rights of any person in the course of using the HHCH.</p>
<p>項目 5(m)</p>	<p>修訂建議</p>
<p>就第 5 條而言，“知識產權”指專利、商標、服務商標、商用名稱、設計產權、版權、網域名稱、數據庫產權、專門技能產權、新發明、設計或程序及其他知識產權，不論有關知識產權屬已知或日後產生(不論屬任何性質及在任何地點產生)，以及在個別情況下，有關知識產權是否已註冊，包括要求獲授任何該等權利的申請。</p> <p>在九龍城民政事務處要求時，申請人須立即向民政事務處提供證據，證明取得上文 (l)(i) 項所提述的批准、許可證或牌照。</p> <p>九龍城民政事務處如認為任何人的知識產權可能被侵犯，可隨時行使絕對酌情權指示申請人停止任何在社區會堂的作為，以及從社區會堂移走任何版權作品，而申請人必須立即遵行該等指示。</p> <p>For the purpose of clause 5, “intellectual property rights” refer to patents, trade marks, service marks, trade names, design rights, copyright, domain names, database rights, rights in know-how, new inventions, designs or processes and other intellectual property rights whether now known or created in future (of whatever nature and wherever arising), and in each case whether registered or unregistered and including applications for the grant of any such rights.</p> <p>If so requested by the KCDO, the applicant shall forthwith provide evidence to the KCDO of any approvals, permits or licences referred to in (l)(i) above.</p> <p>The KCDO may, at any time and at its absolute discretion, direct the applicant to cease any act being carried out in the HHCH and to remove any copyright work from the HHCH, if the KCDO considers that the intellectual property rights of any person may be infringed and the applicant shall immediately comply with such direction.</p>	<p>就第 5 條而言，“知識產權”指專利、商標、服務商標、商用名稱、設計產權、版權、網域名稱、數據庫產權、專門技能產權、新發明、設計或程序及其他知識產權，不論有關知識產權屬已知或日後產生(不論屬任何性質及在任何地點產生)，以及在個別情況下，有關知識產權是否已註冊，包括要求獲授任何該等權利的申請。</p> <p>申請人如表演、播放及/或放映任何音樂版權作品，須填寫香港作曲家及作詞家協會有限公司的節目報表，並於最後一次表演的日期起計 30 天內把填妥的報表交回該協會。</p> <p>申請人如需要有關的節目報表，可向九龍城民政事務處索取。</p> <p>For the purpose of clause 5, “intellectual property rights” refer to patents, trade marks, service marks, trade names, design rights, copyright, domain names, database rights, rights in know-how, new inventions, designs or processes and other intellectual property rights whether now known or created in future (of whatever nature and wherever arising), and in each case whether registered or unregistered and including applications for the grant of any such rights.</p> <p>If the applicant performs, plays and/or shows copyright musical works, the applicant shall complete CASH’s “Programme Return Form” and return the duly completed Form to CASH within 30 days from the date of last performance.</p> <p>Applicant may ask KCDO for the “Programme Return Form” if in need.</p>

徵詢意見

4. 請成員考慮通過《租用紅磡社區會堂設施指南和條件》第 5(l)及 5(m)項目的修訂建議。

九龍城區議會秘書處

2014 年 2 月

民政事務總署已就在紅磡社區會堂表演有版權的文學作品和音樂作品、播放或放映錄音製品、音樂錄像和卡拉 OK 錄像製品，與香港作曲家及作詞家協會有限公司、香港音像版權有限公司和香港音像聯盟有限公司簽訂特許協議。申請人如在紅磡社區會堂表演、播放及／或放映的版權作品由該三家版權特許機構控制或管理，而其表演、播放及／或放映該等作品並非相關特許協議所豁除，申請人無須另行向上述機構申請特許。有關的豁除事項節錄如下。

除外條款 / 不包括的權利 / 權利保留

香港作曲家及作詞家協會 - 除外條款

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- (a) 任何於螢光幕牆的影像音樂播放；
- (b) 使演出作品能在持牌場所地域之外被聽見/看見的權利；
- (c) 複製任何本協會之曲目；
- (d) 有關任何涉及聲音或影像紀錄之版權。

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- (b) 此牌照協議並不伸延至授權等錄音製品、音樂錄像及／或卡拉 OK 錄像製品進行複製、重新混音、複錄或輯錄。
- (c) 此牌照協議並不准許持牌人使用未經授權之錄音製品、音樂錄像及／或卡拉 OK 錄像製品。
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 - (i) 將作品包括在廣播內、或以複製、製作複製品、重新混音、複錄、輯錄或以其他方式處理作品，或作任何其他可能構成侵犯作品版權的行爲；或
 - (ii) 公開播放任何未經授權複製的作品。
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The Home Affairs Department has entered into licence agreements with Composers and Authors Society of Hong Kong Limited [CASH], Phonographic Performance (South East Asia) Limited [PPSEAL] and Hong Kong Recording Industry Alliance Limited [HKRIA] for the performance of copyright literary and musical works, playing and showing of sound recordings, music videos and karaoke videos at HHCH. The applicant does not need to apply for an individual licence from these three copyright licensing bodies if the copyright works to be performed, played and/or shown by it at HHCH are controlled or administered by these licensing bodies and its performance, playing and/or showing is not excluded by the relevant licence agreements as extracted below.

Exclusions / Reservation of Rights

CASH – Exclusions

The licence hereby granted shall not extend to nor authorize the following –

- (a) any Visual Music Performances by means of Video Wall;
 - (b) any public performance or causing any public performance of the Society's Repertoire to be visible beyond the precincts of the Premises;
 - (c) any reproduction of the Society's Repertoire; and
 - (d) any copyright in respect of any sound recordings.
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PPSEAL – Exclusions

- (a) This Licence does not authorize the Licensee(s) to do any act which could be an infringement of any copyright subsisting in the works reproduced upon the sound recordings, music videos and/or karaoke videos.
 - (b) This Licence does not extend to nor may it be deemed to authorize the reproduction, remixing, rerecording or editing of the sound recordings, music videos and/or karaoke videos.
 - (c) This Licence does not permit the Licensee(s) to use any unauthorized copies of the sound recordings, music videos and/or karaoke videos.
 - (d) This Licence expressly does not cover those works which do not fall within the repertoire of PPSEAL.
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- (b) Nothing contained in the Terms and Conditions shall be construed as authorizing the Licensee to :-
 - (i) include any Work in any broadcast, or copy, reproduce, remix, re-record, edit or otherwise deal with any Work, or do any other act which may infringe the copyright subsisting in any Work for any purpose whatsoever; or
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- (c) The Licensee expressly undertakes and warrants not to commit the acts specified in paragraph (b) above.
- (d) HKRIA and its members expressly reserve their rights and remedies against Licensee in respect of any unauthorized activity or infringement of intellectual property rights.