

立法會
Legislative Council

LC Paper No. CB(1)571/00-01
(These minutes have been
seen by the Administration)

Ref : CB1/PL/ITB/1

Legislative Council
Panel on Information Technology and Broadcasting

Minutes of meeting
held on Monday, 8 January 2001, at 2:30 pm
in Conference Room A of the Legislative Council Building

- Members present** : Hon SIN Chung-kai (Chairman)
Hon Howard YOUNG, JP (Deputy Chairman)
Hon Kenneth TING Woo-shou, JP
Hon David CHU Yu-lin
Hon Eric LI Ka-cheung, JP
Hon CHAN Kwok-keung
Dr Hon Philip WONG Yu-hong
Hon YEUNG Yiu-chung
Hon Emily LAU Wai-hing, JP
Hon Timothy FOK Tsun-ting, SBS, JP
Hon LAW Chi-kwong, JP
- Members attending** : Hon Fred LI Wah-ming, JP
Hon James TO Kun-sun
Hon LAU Chin-shek, JP
- Public officers attending** : For Item IV

Ms Gracie FOO
Principal Assistant Secretary for Information Technology
and Broadcasting (E)

Mr M H AU
Senior Assistant Director of Telecommunications

For Items V & VI

Mr Alan SIU
Deputy Secretary for Information Technology and
Broadcasting (2)

For Item V

Mr Dennis PANG
Assistant Director of Information Technology Services

For Item VI

Mr K H LAU
Director of Information Technology Services

Mr Thomas TANG
Executive Director, Hong Kong Productivity Council

Mr K T YUNG
General Manager, Information Technology Division,
Hong Kong Productivity Council

For Item VII

Mr Eddy CHAN
Commissioner for Television and Entertainment Licensing

Ms Ava CHIU
Assistant Commissioner (Broadcasting),
Television and Entertainment Licensing Authority

Mr Eddie MAK
Principal Assistant Secretary for Information Technology
and Broadcasting (A)

Clerk in attendance : Miss Polly YEUNG
Chief Assistant Secretary (1)3

Staff in attendance : Ms Sarah YUEN
Senior Assistant Secretary (1)4

I Confirmation of minutes of meeting and matters arising
(LC Paper Nos. CB(1)327, 387 and 410/00-01)

The minutes of the Panel meetings held on 17 November and 11 December 2000 respectively were confirmed.

2. Members noted the Panel's list of follow-up actions and the list of issues to be considered tabled at the meeting.

II Date and items of discussion for next meeting

3. Members considered that there was a need to examine interconnection issues in greater detail in conjunction with the industry and the Administration. As such, they decided that all fixed telecommunication network services (FTNS) operators should be invited to attend the next meeting of the Panel to be held on 12 February 2001 at 2:30 p.m. for further discussion of the subject.

(Post-meeting note: The notice of meeting and list of organizations to be invited have been issued vide LC Paper No. CB(1)439/00-01)

III Information paper issued since last meeting
(LC Paper No. CB(1)404/00-01)

4. Members noted LC Paper No. CB(1)404/00-01 attaching copy of a letter from four pay TV operators expressing concerns about news articles relating to the domestic pay television programme service licence granted to Galaxy Satellite Broadcasting Limited.

IV Interconnection issues

(LC Paper Nos. CB(1)397, 423 and 424/00-01, and the submission from PCCW-HKT Limited tabled at the meeting and circulated thereafter vide LC Paper No. CB(1)429/00-01(01))

5. The Chairman said that this item had been proposed by him to examine the progress made and problems encountered in interconnection since liberalization of the FTNS market in 1995. He added that it was important for new FTNS operators to extend their service coverage satisfactorily through interconnection to PCCW-HKT Limited (HKT)'s customer access network to provide consumers with a choice of alternative service providers. The Senior Assistant Director of Telecommunications, Office of the Telecommunications Authority (SADT, OFTA) then briefed members on the Administration's information paper.

Overall progress made by new FTNS operators in extending their service coverage to widen consumer choice

6. Mr Fred LI pointed out that at present, up to 95% of residential customers still only had direct access to HKT's service, and hence had difficulty in switching to another service provider. He was concerned that while the local exchange line tariffs charged by other operators only ranged from \$60 to \$80, HKT had already announced an increase in its local tariffs from \$90 to \$110, and might increase its tariffs further when the tariff cap was lifted in 2001. Consumers would therefore be unfairly denied the choice of cheaper services by the new FTNS operators because of the latter's limited service coverage as a result of interconnection difficulties. The Deputy Chairman, Miss Emily LAU and Mr LAU Chin-shek shared Mr LI's concern.

7. In response, SADT, OFTA and the Principal Assistant Secretary for Information Technology and Broadcasting (E) (PAS/ITB(E)) gave the following explanation to address members' concerns -

- (a) The breaking of market dominance for local fixed market might take time as indicated by similar deregulation experience in the United Kingdom (UK), where the FTNS market had been liberalized since 1984 but the dominant player presently still had a market share of 82%. Market share of industry players was a matter of the market. To provide choices to consumers, the key issue for the Government was to have an interconnection regime that could promote fair competition, and to continue a policy of progressive liberalization.
- (b) The commitments in terms of service coverage made by the three existing new wireline-based FTNS operators would have the effect of providing up to 50% of residential customers the choice of an alternative service provided by one of the three new licensees by the end of 2002. Moreover, the 50% target was only the minimum pledge. The new licensees were encouraged to extend their service coverage more vigorously.
- (c) The Administration would ensure that the new wireline-based FTNS operators could fulfil their roll-out commitments by requiring them to submit end-of-year progress reports. They had been able to achieve the targets of 1999 and OFTA would examine their progress report ending 2000.
- (d) The new local wireless FTNS licensees and Cable TV licensed to provide telecommunications services using cable modem technology in early 2000 would provide further consumer choice.
- (e) The increase in HKT's local exchange line tariffs would have the effect of bringing them in line with the level of costs. The lower tariffs

charged by the other three wireline-based FTNS licensees would enable them to compete more effectively with HKT.

8. On overseas deregulation experience, the Deputy Chairman opined that the UK market was in fact more conducive to competition than Hong Kong because instead of paying a fixed tariff for local telephone calls, consumers there paid according to the calls made so that they could register with different operators and decide which one's service to use when making a call. Indirect access arrangement was also available to ensure new operators' service coverage. In reply, SADT,OFTA said that Hong Kong had already introduced indirect access arrangement in 1995 to enhance competition in external telecommunications services (mainly IDD and internet service). The new wireline-based FTNS licensees could provide service to all households through indirect access without the need of providing direct connections to their customers. Therefore the new operators might not have the commercial incentive to roll out their networks to their customers speedily if the costs so incurred would exceed the revenue they received from the direct connections. With tariffs re-balanced to cost level, new FTNS operators should be encouraged to undertake more vigorous promotional efforts and network rollout plans in order to increase their market share.

9. Regarding other measures to ensure that the new wireline-based FTNS operators would meet the 50% target in 2002, SADT,OFTA reported that where access to buildings was concerned, the amendments to the Telecommunications Ordinance in June 2000 had clarified the procedures and relevant parties' rights and obligations. A working group had also been set up under OFTA to help tackle problems in this area. As for interconnection to HKT's exchanges, the Industry Code of Practice for the Interconnection of the Local Access Link specifying the procedures and the turnaround time for effecting interconnection was issued in 1999 by a Working Party set up under OFTA comprising representatives from all the four existing FTNS operators. The Code of Practice would be reviewed regularly to ensure that it would serve its purpose effectively in facilitating new licensees to have access to HKT's telephone exchanges. SADT, OFTA added that the three new wireline-based FTNS licensees had provided corporate guarantees for the fulfilment of their commitments in network roll-out and service coverage.

The progress of interconnection

10. The Deputy Chairman enquired whether interconnection problems were the major cause for the slow progress made by the new FTNS licensees in increasing their market share. Miss Emily LAU also asked if the Administration was willing to take further measures to expedite the progress of interconnection to enhance competition, which would bring about wider choice, better service quality and reasonable tariffs to benefit consumers. In reply, SADT,OFTA pointed out that increased demand for interconnection beyond what had already been agreed between operators should first be negotiated between the parties seeking interconnection and HKT, which owned the customer access network, and the OFTA should be asked to intervene if commercial negotiation failed.

11. The Chairman pointed out that as indicated in the submissions from New T&T Hong Kong Limited (New T&T) and New World Telephone Limited (New World), they had experienced considerable difficulty in expediting the interconnection process despite the setting up of the Working Party mentioned by SADT, OFTA. In reply, SADT, OFTA reported that the process of negotiating interconnection had become more smooth since the issue of the Code of Practice, and interconnection arrangements had been effected according to the provisions agreed in the Code. As for TA's role, PAS/ITB(E) advised that although the TA was empowered to make determination on interconnection, it was a reserved power for intervention. The line with the existing policy was to encourage network operators to agree among themselves the terms and conditions for interconnection on a commercial basis. TA might also help to mediate. She further pointed out that on most occasions, the relevant parties had been able to reach an agreement and there had only been a few occasions on which TA had to make a determination.

Complaints about interconnection problems

12. Referring to the submissions from New World and New T&T, the Chairman and Messrs. Fred LI and LAU Chin-shek sought the Administration's view on whether the companies' complaints about problems in interconnecting with and accessing to HKT's telephone exchanges and subscriber lines (local loop) were valid. In reply, SADT, OFTA referred to the quota of cutting over 36 subscriber lines per working day per exchange per operator and confirmed that the said quota had been agreed at the Working Party. He further pointed out that whether HKT would entertain requests in excess of the above quota would be a matter of negotiation between HKT and the party making the request. As to whether HKT could simplify its administrative procedures in effecting interconnection, SADT, OFTA opined that this issue would need to be examined in greater detail in the Working Party, having regard to the resources available at HKT.

13. Mr Kenneth TING referred to complaints about high interconnection charges, and asked whether disagreement over the level of charges was the main factor affecting the progress in interconnection. SADT, OFTA replied that disputes over charges had been a major cause. As regards the principle adopted by TA in making determinations on interconnection, he advised that in calculating the interconnection charges, the network owner/provider should base such charges on the relevant reasonable cost based on the Long Run Average Incremental Costs including a reasonable cost of capital commensurate with the risks associated with network investment as assessed by financial consultants.

14. At members' request, the Administration agreed to provide the following information for the next Panel meeting -

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- (a) The Administration's response to the submissions from New World, New T & T and HKT;

- (b) the Industry Code of Practice for the Interconnection of Local Access Link drawn up by the Working Party;
- (c) a map showing the network and service coverage of various operators over the territory as at present and if possible, by end 2002 (when the “50% target” was due) so as to provide a clearer perspective on the choices available to customers; and
- (d) how the Administration would deal with future increase in tariff, if any, by HKT after 1 January 2001.

The Administration also undertook to provide a further response to the views expressed by the deputations at the February meeting.

V Software assets management in Government (LC Paper No.CB(1)387/00-01(02))

15. The Deputy Secretary for Information Technology and Broadcasting (2) (DS/ITB(2)) briefed members on the Administration’s information paper. The Chairman expressed appreciation for the exercise conducted by the Administration to ensure proper use of software within Government.

Implementation details

16. Mr YEUNG Yiu-chung enquired why some relatively small departments should lag behind larger bureaux/departments in implementing software assets management (SAM) measures. In reply, DS/ITB(2) advised that the former had in fact implemented nearly all necessary SAM measures. What remained to be completed was the software assets audit. He nevertheless assured members that although different bureaux/departments might not be progressing at the same pace in implementing SAM measures, it was anticipated that all Government bureaux and departments would have implemented all SAM measures by end June 2001.

17. The Deputy Chairman highlighted the importance of sustained effort in ensuring the proper management of software assets. DS/ITB(2) shared his views and assured him the Administration would continue to conduct quarterly surveys on the progress of SAM implementation in bureaux and departments.

18. On disciplinary action, if any, taken against staff who had engaged in the use of illegal software, DS/ITB(2) said that guidelines on the proper management of software assets had already been issued in 1999 to all bureaux/departments advising them to take disciplinary action against staff using illegal software. However, the cases detected in question so far did not warrant disciplinary actions.

Experience sharing with other sectors

19. Acknowledging the importance of experience sharing with the private sector, Mr Kenneth TING asked whether the Administration would consider charging fees for providing advice to the private sector on SAM measures. In response, DS/ITB(2) confirmed that at present, the Government had no plan to charge fees as this was considered part of the Government's public education efforts. He however noted Mr TING's view for consideration. DS/ITB(2) further reported that as an important step in encouraging good SAM practices in the private sector, the Government would require all contractors tendering for Government information technology projects to include an undertaking in their bids that they would not use illegal or pirated software.

20. Miss Emily LAU opined that guidelines on the proper use of software should also be issued to non-Government organizations (NGOs) funded by the Government for compliance. The Chairman shared her view and agreed that since the NGOs were funded by the Government, they should also be required to follow the SAM measures, lest any infringement acts on their part would embarrass the Government. He also urged that public education on the proper use of software should be geared up in preparation for the implementation on 1 April 2001 of the Intellectual Property (Miscellaneous Amendments) Ordinance. In response, DS/ITB(2) agreed to consider the suggestion of extending the Government's SAM measures to NGOs.

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VI Establishment of a Computer Emergency Response Centre (CERC) in Hong Kong (LC Paper No.CB(1)387/00-01(03))

21. The Director of Information Technology Services (DITS) briefed members on the latest developments in the establishment of a Computer Emergency Response Centre (CERC) in Hong Kong.

Work of the local CERC

22. On the virus alert service to be provided by the local CERC to be established by the Hong Kong Productivity Council (HKPC), the General Manager, Information Technology Division, HKPC (GM/ITD, HKPC) explained that the service would be a continuation of the free subscription service presently provided by HKPC to which many banks in Hong Kong were subscribers. Once HKPC received news of potential virus attacks, it would immediately issue warning alerts to its subscribers through email. Where appropriate, HKPC would alert the public of the attacks through the media.

23. On the awareness of the virus alert service among the industrial and commercial sectors, the Executive Director, Hong Kong Productivity Council (ED, HKPC) pointed out that active promotion of the services of the local CERC would start in January 2001 well before its formal establishment. For example, an

episode on computer security and the CERC would be shown in the "IT Files II" RTHK television programme on 16 January 2001. A series of radio publicity programmes would be conducted a week thereafter. When the CERC was to be officially launched on 20 February 2001, there would be radio announcements and special newspaper supplements. HKPC had also taken the initiative to schedule 60 meetings with the industrial and commercial sectors to introduce the services offered by the local CERC.

The mode of operation and funding

24. The Chairman highlighted the need to work out as early as possible the local CERC's future mode of operation, in particular its funding arrangement. In his view, recurrent Government funding should be made available to enable the local CERC to continue its operation focusing on the core functions of publishing alerts and providing incident reporting. In this way, the local CERC would not have to generate income to support itself by providing security advisory service in direct competition with private-sector companies.

25. In reply, DS/ITB(2) and ED, HKPC stressed that the demand for CERC service in Hong Kong and the scale and mode of its operation could only be further ascertained in the light of operational experience. For example, if the local CERC had a large number of subscribers, the subscription fees received might be sufficient in supporting its operations. The Administration therefore considered it prudent to review the work accomplished by the local CERC first before deciding on its future operation and funding arrangements. DS/ITB(2) and ED, HKPC however assured members that while the review on CERC was scheduled to be conducted two years after its operation, the Steering Committee formed to set directions and guidelines for the CERC could make a decision on its future mode of operation and funding on an earlier date, if necessary. They further advised that the grant from the Innovation and Technology Fund (ITF) would cover the setting up cost for the CERC and its operation for three years. While the service of two overseas technical consultants would be engaged for the initial stage, it was expected that the recurrent operating expenditure of the CERC would be lowered when local expertise was built up through technology transfer over time.

26. Regarding the operation and funding arrangements of overseas CERCs, GM/ITD, HKPC informed members that the CERCs in the US and Singapore were fully Government funded and were in fact part of the Government machinery. The CERCs of Australia and Canada, on the other hand, were private corporations charging fees for their services. As for the German CERC, it was established by the universities through Government funding and was mainly serving university users although it also provided services to the private sector.

27. Miss Emily LAU opined that it might be advisable to charge fees on profit-making establishments such as banks for the virus alert service. In response, GM/ITD, HKPC considered that at present, it might not be desirable to differentiate

between users of the alert service because there were only a few hundreds of them. However, when users increased after formal launch of the local CERC, the practicability of charging fees for its service might need to be considered in the context of the review on the CERC's mode of operation and funding arrangement.

VII Proposed revisions to the draft Generic Codes of Practice for Television and the draft Radio Codes of Practice

(LC Paper No.CB(1)416/00-01, and a set of power-point presentation material and Annexes C and D to LC Paper No.CB(1)416/00-01 tabled at the meeting and circulated thereafter vide LC Paper No. CB(1)429/00-01)

28. With the aid of power-point presentation, the Commissioner for Television and Entertainment Licensing (C for T&EL) briefed members on the revisions proposed by the Broadcasting Authority (BA) to the draft Generic Codes of Practice for Television and the draft Radio Codes of Practice after careful consideration of the views received during the recently concluded public consultation exercise.

Safeguards against conflicts of interests

29. Miss Emily LAU was concerned about possible conflict of interests of presenters of news programmes dealing with matters of public policy or controversial issues of public concern. As the register of declaration of interests by programme presenters to be set up by the licensee would not be information in the public domain, she highlighted the need for public access to this register to facilitate public monitoring. In response, C for T&EL said that due to considerations of privacy and sensitive commercial interests, some respondents did not favour disclosing all information relating to declaration of the interests in question. As some licensees had already set up their own mechanism for programme presenters to declare interest, there was a view that the industry should be allowed to exercise self-regulation and to exercise discretion in deciding the extent of information to be disclosed.

30. While supporting self-regulation, Miss Emily LAU pointed out that the mass media were very influential and she urged that every broadcaster should set up a credible mechanism to guard against conflict of interests, and that they should handle complaints in a fair and transparent manner. She thus opined that all licensees should clearly stipulate how they would guard against conflict of interests and handle complaints.

31. In response, C for T&EL assured members that any member of the public could lodge a complaint if there was a perceived conflict of interests in connection with a programme. The licensee concerned would be required to receive and consider the complaint and to inform the complainant and the BA of the findings of its investigation and make such findings available for public inspection. As such, although the manner in which the licensee investigated individual complaints and the sanctions, if any, to be applied would be outside the ambit of the BA, they would be

subject to public scrutiny. Hence, there would be sufficient pressure on the licensee to ensure the fairness and credibility of his self-regulatory system.

32. As to overseas practices, C for T&EL elaborated that a system of self-regulation was adopted in the United States. In the UK, there were requirements on programme hosts to declare interests to guard against conflict of interests but the details on how interests should be declared had not been specified. More stringent requirements were in place in Australia where the licensees were bound by their licence conditions to disclose all relevant commercial interests of their programme presenters. This might be the result of a case in Australia where a famous programme presenter was found to have a conflict of interests when presenting a current affairs topic for public discussion. There were, however, recent debates as to whether the requirement should be relaxed.

Concerns about possible over-regulation

33. Mr James TO opined that to guard against possible abuse of the complaint mechanism, there should be clear guidelines on what constituted a proper complaint that warranted investigation. In reply, C for T&EL said that while the licensees would be allowed to set up their own self-regulatory system, the Administration was of the view that the licensees should handle and investigate the validity of each and every complaint, whether anonymous or not, and report the outcome to BA and the public.

34. Mr James TO stressed that the requirement to guard against conflict of interests should not be incorporated in the Codes of Practice, lest non-compliance of the requirement might lead to revocation of licence. C for T&EL noted his view but assured members that action could only be taken against licensees for failing to devise and institutionalize, within three months from promulgation of the Codes, a mechanism for disclosure of conflict of interests, and for failing to handle complaints according to the requirements stipulated in the Codes. Moreover, depending on the seriousness of the breach, sanctions against licensees would normally range from advice, warning to fines. The revocation of licence would not be resorted to unless under the most severe of circumstances and, in which case, a public hearing would need to be conducted under the Broadcasting Ordinance.

35. In this regard, the Chairman stated his view that the adverse publicity generated from a programme host's conflict of interests or failure to declare interests might have a more devastating effect than any penalties under the Codes of Practice. Miss Emily LAU however, maintained her view that an effective declaration and monitoring system was necessary in view of the pervasiveness of many of the broadcast programmes.

36. The meeting ended at 4:40 p.m.

Legislative Council Secretariat
8 February 2001