

立法會
Legislative Council

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(These minutes have been
seen by the Administration)

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Legislative Council
Panel on Information Technology and Broadcasting

Minutes of special meeting
held on Friday, 17 November 2000, at 10:45 am
in the Chamber of the Legislative Council Building

- Members present** : Hon SIN Chung-kai (Chairman)
Hon Howard YOUNG, JP (Deputy Chairman)
Hon Eric LI Ka-cheung, JP
Hon CHAN Kwok-keung
Hon YEUNG Yiu-chung
Hon LAW Chi-kwong, JP
- Member attending** : Hon Henry WU King-cheong, BBS
- Members absent** : Hon Kenneth TING Woo-shou, JP
Hon David CHU Yu-lin
Dr Hon Philip WONG Yu-hong
Hon Emily LAU Wai-hing, JP
Hon Timothy FOK Tsun-ting, SBS, JP
- Public officers attending** : For Item II
Ms Eva CHENG, JP
Deputy Secretary for Information Technology and
Broadcasting (1)
Mr M H AU
Senior Assistant Director (R), Office of the
Telecommunications Authority

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

For Items II & III

Mr K S WONG
Assistant Director (O), Office of the Telecommunications
Authority

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

For Item III

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

For Items III & IV

Mr Eddy CHAN
Commissioner for Television and Entertainment Licensing

For Item IV

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

Miss Adeline WONG
Principal Assistant Secretary for Information Technology
and Broadcasting (B)

Mr John MAK
Senior Engineer, Television and Entertainment Licensing
Authority (Special Effects)

For Item V

Ms Joyce TAM
Principal Assistant Secretary for Information Technology
and Broadcasting (C)

Mr Simon YAN
Assistant Director (Management and Community
Services), Information Technology Services
Department

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

Staff in attendance : Miss Connie FUNG
Assistant Legal Adviser 3

Ms Sarah YUEN
Senior Assistant Secretary (1)4

I Date and items for discussion for next meeting

(LC Paper No. CB(1)179/00-01(01) and copy of a letter from the Administration proposing to include four items in the agenda of the Panel's December meeting tabled at the meeting and circulated thereafter vide LC Paper No. CB(1)193/00-01(01))

Members agreed to discuss at the next regular meeting of the Panel to be held on 11 December 2000 at 2:30 pm the following four items proposed by the Administration -

- (a) Digital broadcasting;
- (b) Review of 'Digital 21' IT Strategy;
- (c) Public Opinion Survey on Film Classification 2000; and
- (d) Cyberport.

(Post-meeting note: At the request of the Administration and with the concurrence of the Chairman, (b) was subsequently replaced by "the administration of Internet domain names in Hong Kong".)

Clerk 2. The Chairman suggested and members agreed to include "interconnection problems" in the Panel's List of Issues to be Considered.

3. Mr Eric LI would like to be updated on the progress made in finalizing the Practice Note of the Hong Kong Society of Accountants on the Assessments of Certification Authorities under the Electronic Transactions Ordinance.

(Post-meeting note: The Administration has directly written to Mr Eric LI to update him on the progress.)

II Implementation of carrier licence under Telecommunication (Amendment) Ordinance 2000

(LC Paper Nos. CB(1)171/00-01(01) and 179/00-01(02), and a set of power-point presentation material on this item tabled at the meeting and circulated thereafter vide LC Paper No. CB(1)193/00-01(02))

Implementation arrangements

4. With the aid of power-point presentation, the Principal Assistant Secretary for Information Technology and Broadcasting (E) and the Senior Assistant Director, Office of the Telecommunications Authority (SAD, OFTA) briefed members on the implementation details of the carrier licence under the Telecommunications Ordinance (Cap. 106) (TO) as amended by the Telecommunication (Amendment) Ordinance 2000.

Categorization of carrier licences

5. Mr LAW Chi-kwong cast doubt on the continued need to categorize carrier licences into fixed and mobile licences in the current service- and technology-convergent environment. SAD, OFTA acknowledged the trend of convergence but pointed out that for the time being, the rights and obligations of the holders of carrier (fixed) licences and carrier (mobile) licences would still be very different. For example, unlike carrier (mobile) licensees, carrier (fixed) licensees would not have the right to use mobile service frequency spectrum but could conduct road opening works to lay cables. Notwithstanding, the Telecommunications Authority (TA) had already standardized the general conditions for all types of carrier licences.

6. In this connection, Mr Eric LI said that the TA might, as many overseas countries did, issue just one type of carrier licence specifying the type(s) of service which the operator was permitted to provide. In his view, this might also have the benefit of saving costs and hence reducing licence fees. In response, SAD, OFTA pointed out that the scope of services and regulation related to a carrier (fixed) licence, a carrier (mobile) licence and a carrier (space stations) licence were basically different. However, he assured members that where possible, similar types of service had already been grouped together under one type of licence. For example, the carrier (fixed) licence covered both internal and external services and both wireline-based and wireless services.

The licence fees

7. On the difference in the proposed fee structures between the carrier (fixed) licence and the carrier (space stations) licence, SAD, OFTA explained that these fee structures had been formulated with a view to recovering the administrative costs incurred in licensing work. Members noted that the nature and amount of work involved in administering a carrier (fixed) licence and that in administering a carrier (space stations) licence were very different. For example, in the case of the carrier (fixed) licence, the workload involved in handling interconnection and complaints would increase with the number of customers. Hence, the number of customer connections was adopted as a factor in calculating its licence fee. The carrier (space stations) licence however would only be issued for the operation of satellite space stations not directly serving customers. Customer connections were therefore not a factor in the licence fee computation formula.

8. The Deputy Chairman enquired whether the initial fee of the carrier (space stations) licence would need to be three times as high as its annual fee. SAD, OFTA confirmed that there was a need for such a level of initial fee. He nevertheless assured members that the costs involved in administering the different types of licences were subject to internal reviews annually.

9. The Chairman asked whether it was possible for the Administration to provide information on the actual licence fees payable by each of the carrier licensees according to the proposed fee structures. In reply, SAD, OFTA explained that there might be difficulty in providing such information because the fees were calculated on the basis of certain commercially-sensitive data such as customer connections, the frequency bands of spectrum used, or the number of base and mobile stations. However, the total amount of licence fees paid to the TA could be made public.

The period of licence validity

10. As to how the validity period of the carrier (mobile) licence would be extended from ten years (the existing validity period) to 15 years as proposed, SAD, OFTA confirmed that existing licences would remain in force until their expiry. As such, should existing licensees choose to apply for the new carrier licences, the validity period of the new carrier licences issued to them would be the remaining validity period of their original licences. Only when an existing licensee applied for a new carrier licence after his existing licence expired would the validity period of the new licence be 15 years.

11. In this connection, Mr LAW Chi-kwong expressed concern about possible litigation over the differences in the validity period. In response, SAD, OFTA assured members that the aforesaid arrangements were in order having regard to the relevant provisions under the TO relating to transitional arrangement.

Other concerns

12. Mr Eric LI enquired about the legal basis for TA's power to determine the wholesale price for network capacity which future Third Generation (3G) network operators would be required to open up to Mobile Virtual Network Operators (MVNOs). In reply, SAD, OFTA advised that TA's power in this regard had already been provided for in section 36A of the TO.

Funding for consultancy on licensing of 3G mobile services

13. The Deputy Secretary for Information Technology and Broadcasting (1) (DS/ITB(1)) referred to the Panel's meeting with deputations to discuss 3G licensing on 13 November 2000, and recapitulated that there was general support from the industry for the proposed hybrid licensing method. She also noted that major licensing issues such as the number of licences to be issued, equal treatment of incumbent operators and new entrants, and mandatory domestic roaming from 3G to 2G networks were not in dispute. As for the MVNO concept, DS/ITB(1) said that the industry had no objection in principle but had expressed concerns about its implementation details. She believed that such concerns could be addressed by way of industry workshops which the Administration would soon conduct. As such, the Administration considered it opportune to proceed with seeking experienced consultants to advise on the licensing and regulatory framework of 3G mobile services in Hong Kong.

14. DS/ITB(1) then briefed members on the Administration's proposal to seek funding to engage the consultants. Members noted that the estimated consultancy fees would be stipulated in the submission to the Finance Committee (FC) for approval in December 2000. The Administration considered it premature to disclose the amount at this stage as this might put the Government in a disadvantaged position with regard to the bidding prices submitted by interested bidders. However, DS/ITB(1) was confident that the competitive bidding process for the said consultancy would help ensure that Hong Kong would get the best value of money from the service contract.

15. Mr Law Chi-kwong expressed support for commissioning a consultancy study to look into possible problems and clear uncertainties inherent in licence auctioning so as to guard against litigation and related financial loss. He also agreed with the Administration's approach of not disclosing the estimated funding at the present stage. In response, DS/ITB(1) reaffirmed that the advice of consultants experienced in the auctioning approach could help to ensure that the auctioning rules and the regulatory framework of 3G services would be legally sound and comprehensive.

16. On the number of bids for the consultancy study, DS/ITB(1) and SAD, OFTA reported that seven shortlisted consultants had already been invited to submit their proposals. However, not all of them might finally submit their proposals.

17. In response to the Chairman, DS/ITB(1) advised that Hong Kong would not be the first in Asia to auction 3G licences because Singapore was already planning to put up its 3G licences for auction in February 2001. Japan had also awarded its 3G licences.

18. Summing up, the Chairman said that members in principle supported the submission of the funding proposal to FC.

III Licence fees for TV programme service licensees (LC Paper No. CB(1)171/00-01(02))

19. The Commissioner for Television and Entertainment Licensing (C for T&EL) briefed members on the proposed fees for television programme service licences issued under the Broadcasting Ordinance (Cap. 562) (BO).

The fee levels

20. Mr YEUNG Yiu-chung considered that as Hong Kong experienced no inflation in recent years, the level of licence fees were on the high side. C for T&EL responded that the levels of licence fees had been set with a view to recovering the costs incurred in licence administration such as handling complaints, making reports to the Broadcasting Authority (BA), enforcing licence conditions, etc. Moreover, any fee adjustment would need to be introduced in the form of subsidiary legislation and members would still be able to scrutinize the proposals and seek explanation from the Administration.

21. In reply to Mr YEUNG Yiu-chung's enquiry about cost control measures to keep the level of licence fees down, C for T&EL emphasized that the licensing procedures had already been streamlined. Referring to new requirements imposed by the BO on the Television and Entertainment Licensing Authority (TELA) and the BA such as the enforcement of the newly introduced fair competition provisions, C for T&EL pointed out that as a result of streamlined procedures and cost saving measures, these new duties had not in fact led to a corresponding increase in administrative costs and licence fees.

The computation factors

22. The Chairman noted that the estimated number of subscribers of different television programme service licensees, which was a factor in calculating their licence fees, was available in the discussion paper for this agenda item whereas the licence fees payable by individual carrier licensees were not made known in the discussion paper for the previous agenda item. He questioned the reasons for such different treatment.

23. In reply, the Principal Assistant Secretary for Information Technology and Broadcasting (A) (PAS/ITB(A)) explained that customer figures were available in this case because the two existing pay TV licensees had, on their own accord, announced the number of their subscribers. However, if, in future, they decided not to disclose such figures, the Administration would not be in a position to make known to the public the relevant figures used in the fee computation formula.

24. The Chairman expressed the view that viewership ratings and the number of public complaints received affected the licence administration costs and hence, should be included as variables in computing the licence fees for TV programme service licensees. In response, C for T&EL cautioned that there might be considerable fluctuation if complaint figures were used as a major factor in the calculation of licence fees as the number of complaints would vary greatly from time to time. There would then be a need to introduce subsidiary legislation time and again to adjust the fee level. He assured members that the number of complaints had already been taken into consideration as such figures would normally be dependent upon the number of subscribers and the number of channels. The different costs incurred in handling complaints had therefore been taken into account in the computation formula which was based on a number of dependent variables such as the number of subscribers and the number of channels, etc. C for T&EL added that the aforesaid two variables would provide greater certainty in the computation of licence fees.

25. The Chairman however pointed out that the number of channels might not necessarily reflect the viewership because some channels might have very few viewers. He thus maintained that the viewership ratings reflecting the market share should be one of the fee computation factors, so that Asia Television Ltd (ATV) should pay less licence fees than Television Broadcasts Limited (TVB) as the latter had more viewers and would require more government resources to handle complaints against it. Mr LAW Chi-kwong also highlighted the inherent unfairness in requiring ATV and TVB to pay almost the same licence fees, and urged the Administration to address such unfairness in future reviews of the proposed fee structures. He further suggested that concerns about fee fluctuations could be addressed by referring to the average complaint figures of the past five years instead of annual complaint figures. In this regard, the Chairman supplemented that although he had no objection to the charging system as currently proposed, he would urge the Administration to seriously consider members' views in future reviews, and to give justifications should the Administration decide against adopting them.

Admin 26. While agreeing to take into consideration members' views when conducting future fee reviews, C for T&EL cautioned that there might be practical difficulty in adopting the appropriate viewership ratings as a variable which would be acceptable to all licensees concerned.

27. The Deputy Chairman enquired about the rationale of using the estimated number of hotels to be the unit for computing costs incurred in administering the Other Licensable TV Programme Service Licence (for hotels). In reply, C for T&EL

recalled that the number of rooms in each hotel was previously used for computing the costs for this type of TV licence. However, it was found that irrespective of the number of hotel rooms, the costs incurred in administering the licence were similar. As such, the Administration was proposing to use the number of hotels as the unit instead, having regard to the fact that the TV programmes shown in different hotels might be different.

Implementation timetable

28. Regarding the timetable for implementing the new charging system, PAS/ITB(A) reported that the target was to introduce the subsidiary legislation under the BO to prescribe the annual licence fees payable by television programme service licensees on a full cost recovery basis into the Legislative Council in late 2000 or early 2001 for negative vetting.

IV Entertainment Special Effects Regulation (draft) and codes of practice

(LC Paper No. CB(1)171/00-01(03) and a set of power-point presentation material on this item tabled at the meeting and circulated thereafter vide LC Paper No. CB(1)193/00-01(03))

29. With the aid of power-point presentation, the Deputy Secretary for Information Technology and Broadcasting (2) (DS/ITB(2)) briefed members on the three draft regulations which prescribed the detailed requirements of the new regulatory framework under the Entertainment Special Effects Ordinance (ESEO) (Cap. 560).

30. While welcoming the proposed regulatory framework, Mr Eric LI noted that apart from the licensing of special effects operators, the registration, supply, conveyance and storage of pyrotechnic special effects materials would also be regulated through the issue of licences or permits. He was concerned that these procedures would involve more time and red tapes and enquired about the performance pledges, if any, in processing such permit/licence applications.

31. In reply, DS/ITB(2) confirmed that depending on the nature of the permits/licences being applied for, there were performance pledges ranging from three to 12 days which the industry considered acceptable. C for T&EL supplemented that in future, applications for all permits and licences would be made to the TELA instead of to five different departments. He further drew members' attention to the exemption provisions of the ESEO under which no permit would be required if the quantities of special effects materials involved did not exceed the stipulated level.

32. In response to Mr Eric LI's enquiry about conducting inspections to guard against illegal use of pyrotechnic materials, C for T&EL confirmed that the Entertainment Special Effects Licensing Authority was empowered under the ESEO to conduct inspections. Moreover, the pyrotechnic special effects material suppliers and store licensees would be required to keep records on every transaction and

delivery of materials for inspection by the Authority.

33. On public consultation on the proposed regulations, the Chairman enquired whether the persons/bodies consulted were sufficiently representative of the industry and whether the consultation was thorough. In response, C for T&EL informed members that the Administration had been holding regular workshops with representatives of the film and entertainment industries and each meeting was attended by some 30 to 40 persons. The Administration had also organized a seminar on the proposed regulations for existing special effects operators, and had incorporated the relevant requirements in the training courses for special effects operators. C for T&EL further confirmed that the industries had been consulted on the texts of the draft regulations and the codes of practice instead of just the broad principles.

V Block vote funding for computerization for 2001-02
(LC Paper No. CB(1)171/00-01(04))

34. The Principal Assistant Secretary for Information Technology and Broadcasting (C) (PAS/ITB(C)) briefed members on the funding requirement for 2001-02 for the implementation of computerization projects under Capital Works Reserve Fund Head 710 Computerization Subhead A007GX - New Administrative Computer Systems. Members noted that the relevant funding request would be put to the Public Works Subcommittee (PWSC) and the FC for consideration in December 2000 or January 2001.

35. Mr Henry WU considered the maximum level of over-commitment of up to 150% of the expenditure approved by FC for the block allocation for a financial year unusual and excessive. In his view, since the estimated annual cash flow of projects straddling a few years had already been worked out in the submission to FC, and a provision of around 10% of the project fee had been reserved to meet contingencies for a project, there was no need for such a high level of over-commitment. Mr CHAN Kwok-keung shared his views and said that the prices of computers tended to go down every year.

36. In response, PAS/ITB(C) and the Assistant Director (Management and Community Services), Information Technology Services Department (AD(M&CS)/ITSD) clarified that the 150% over-commitment level was not an allowance for over-spending but a control measure to ensure that the maximum level of commitment in 2001-02 under the block allocation for covering the expenditure of all approved projects in 2001-02 and in subsequent years would be kept within 150% of the proposed allocation. At the Chairman's request, PAS/ITB(C) undertook to liaise with the Finance Bureau and provide for members' reference before the relevant PWSC meeting a more detailed explanation on the 150% over-commitment level in respect of the block allocation for a financial year. The Chairman further remarked that the explanation should preferably be included in the relevant PWSC paper to facilitate

reference.

(Post-meeting note: The requested information has been circulated vide LC Paper No. CB(1)299/00-01.)

Admin

37. As regards the 310 and more items with expected expenditure in 2001-02 referred to in Annex B to the discussion paper, PAS/ITB(C) advised that the Finance Bureau would see to it that a detailed list of all relevant items would be provided for members' reference before the relevant PWSC meeting.

38. Mr Eric LI expressed concern about the overall cost-effectiveness of the computerization projects under the present proposal and requested more information expressed in terms of enhanced productivity or cost savings. In reply, PAS/ITB(C) assured members of the existence of an internal monitoring mechanism whereby individual departments were required to report on the progress of their respective projects in enhancing productivity or saving costs. The projects would be reviewed if they could not achieve the intended targets.

39. Mr LAW Chi-kwong however cautioned that computerization might not necessarily reduce costs upfront and might even require additional costs. In examining the cost-effectiveness of computerization projects, consideration must also be given to intangible benefits brought about by computerization such as improved or expanded services available to the public.

Admin

40. The Chairman shared Mr LAW's view but to address Mr Eric LI's concern and to facilitate consideration by PWSC, he requested the Administration to provide, along with the relevant PWSC paper if appropriate, a summary on the major benefits expected to be achieved by projects approved under the block allocation.

(Post-meeting note: The requested information has been circulated vide LC Paper No. CB(1)299/00-01.)

41. The meeting ended at 12:35 pm.