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Our Ref.: HKC/JUPG/L018-03

The Honourable Mr. Lau Ping-cheung  
Chairman, the Bills Committee on the  
Land (Miscellaneous Provisions) (Amendment) Bill 2002  
Legislative Council Secretariat  
3/F., Citibank Tower,  
3 Garden Road,  
Central,  
Hong Kong

**BY FAX & BY POST**  
(Fax No. 2121-0420)

Total pages: 4 pages only

Dear Mr. Lau,

**Re: Land (Miscellaneous Provisions) (Amendment) Bill 2002 (the "Bill") –  
Proposed Economic Charge for Delay in Completion of Excavation at Footpath**

**I. Introduction**

1.1 We refer to the meeting of the Bills Committee of the captioned Bill on 25 February 2003 during which it was proposed that economic charge would be imposed for delay in the completion of excavation of footpath ("footpath charge"). Hong Kong Cable Television Limited ("HKCTV") strongly objects to this proposal.

**II. Lack of objective criteria for determining economic charge for late completion of footpath excavation projects**

2.1 The most fundamental reason for our objection to the proposed economic charge in relation to delay in footpath excavation project is the lack of objective criteria for determining such charge. It would be difficult to quantify or formulate acceptable criteria for determining the economic charge for the late completion of footpath excavation works because the effect of the footpath excavation site on the nearby occupants depends on and varies with the types of industry of these occupants. There may be little or minimal impact on, for example, a non-profit making body like hospital or school because people will not avoid going to hospital or school simply because there is a footpath excavation site nearby. Thus, it is virtually impossible to devise a formula for determining footpath charge of universal application to all footpath excavation sites. Without any convincing economic justification for a methodology in assessing the amount of footpath charge, the proposed method for the calculation of economic charge for footpath excavation is likely to be arbitrary. It will **not** be appropriate to impose economic charge the amount of which the Government itself cannot justify from an economic angle.



2.2 Up to now, the Government still cannot fully explain the rationale behind the calculation of the carriageway economic charge as the Government has failed to elaborate the correlation between flow of traffic, the loss to the economy and the economic charge. It is also difficult to estimate the time required for excavation work at footpath in the first place. In view of the more complicated footway environment and condition, HKCTV has grave concern on the proposed introduction of footpath charge without any economic justification.

**III. Imposition of footpath charge may lead to increase in the number of appeals to the Review Panel created under section 10N**

3.1 In view of the complication on the footway condition referred to in paragraph II above, footpath charges will give rise to more appeal cases against the assessment of the Highways Department on economic charge. This would lead to a surge in the number of cases before the Review Panel created under section 10N of the Land (Miscellaneous Provisions) Ordinance if the Bill is enacted and result in backlog of cases and extra cost on the Government.

**IV. Existing measures of utility companies and Government departments in monitoring the date of completion of excavation at footpath and absence of evidence on the delay or deterioration in the date of completion of excavation at footpath**

4.1 There is no evidence for or statistics indicating the delay or deterioration in the date of completion of excavation at footpath. As a matter of fact, most utility companies including HKCTV already have measures to monitor the progress and performance of their contractors in the excavation projects at footpath. For instance, a HKCTV's contractor which fails to complete excavation at a footpath project on or before the original target date has to pay liquidated damages to HKCTV as stipulated in the excavation contract. The liquidated damages alone are already sufficient deterrent to the contractors for completing the excavation at footpath in time.

4.2 Similar to other utility companies, HKCTV also has an evaluation system to assess the performance of each contractor in the excavation projects including footpath excavation works especially on the time of completion. This merit and demerit point system will enable us to have an accurate record of contractors which are always able to complete footpath excavation work on or before the original target date and those repeatedly fail to finish their excavation work in time. In other words, even without the proposed footpath charge, utility companies like HKCTV would have sufficient means to ensure that their contractors will complete footpath excavation work in a timely manner.



- 4.3 Other than the assessment system, utility companies like HKCTV have established channels of communications with occupants in the area which may be affected by the footpath excavation work. At a conspicuous position at each excavation site, there is an excavation notice showing the name of our company and a contact telephone line which is manned 24 hours a day. If the occupants like shops surrounding the excavation site have any grievances about the excavation work, HKCTV, upon receipt of such complaints, will follow up on their concerns to ensure that the disruption to the public and the surrounding shop(s) is reduced to a minimum level.
- 4.4 Finally, the Highways Department, Transport Department and the police have established effective procedures and measures in monitoring the progress of footpath excavation works by utility companies. It is therefore not necessary to levy footpath charge which will only bring additional financial burden on excavation permit holders.

#### V. Conclusion

- 5.1 To conclude, HKCTV opposes the imposition of economic charge for late completion of footpath excavation projects. In the first place, utility companies including HKCTV already have measures in place to ensure the timely completion of footpath excavation projects by their contractors. In the second place, there are sufficient deterrent imposed by the excavation permit holder and the Government to make sure that contractors will complete excavation projects within the original deadline.
- 5.2 At the same time, it is difficult to come up with an acceptable formula for the calculation of economic charge for the late completion of footpath excavation project which can be justified from an economic perspective. In short, the proposed economic charge is not necessary and not practicable. Finally, we also question the wisdom of introducing such economic charge on excavation permit holders in a period of economic recession and hardship which would inevitably increase the cost of business operation.

Yours faithfully,  
Hong Kong Cable Television Limited

Allen Law  
General Manager  
OSP Engineering and Construction

c.c. Distribution List



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