

Your Ref: CB1/BC/10/01

12 September 2002

Clerk to the Bills Committee on
Land (Miscellaneous Provisions)
(Amendment) Bill 2002
Legislative Council Secretariat
3/F, Citibank Tower
3 Garden Road
Central
Hong Kong

By fax (2121 0420) and by post

Total pages : 3 pages

Attn: Ms Alice Au

Dear Ms Au,

**Re: Land (Miscellaneous Provisions) (Amendment) Bill 2002
(the “Bill”)
Submission by Hong Kong Cable Television Limited
 (“HKCTV”)**

I. Introduction

1.1 We refer to your letter dated 10 July 2002 inviting submissions on the Bill. Clause 4 of the Bill proposes, among other things, to add a new section 10Q to the Land (Miscellaneous Provisions) Ordinance (the “Ordinance”). HKCTV does not support the proposal of the Bill concerning section 10Q(2) which intends to impose an imprisonment for 6 months for breach of section 10Q(1). It is HKCTV’s submission that the proposed fine of \$50,000 already provides sufficient deterrent effect for the enforcement of the proposed section 10Q(1) of the Ordinance without the need for imposing imprisonment for the contravention of that section. The purpose of this submission is to set out the reasons for our view.

1.2 HKCTV provides pay television service under its domestic pay television

programme service licence and it also holds a Fixed Telecommunications Network Services Licence. In order to build and maintain its network, HKCTV from time to time engages contractors to carry out different types of works at various sites for example excavation and laying of ducts and cables.

II. The proposed section 10Q: Provision of safety precautions and support

- 2.1 According to the proposed section 10Q(1) of the Ordinance, the permittee and nominated permittee of a principal excavation permit or principal emergency excavation permit shall adopt all necessary safety precautions to protect the public or any person making or maintaining an excavation to which the permit relates from any danger or injury. The proposed section 10Q(1) also requires the permittee and nominated permittee of a principal excavation permit or principal emergency excavation permit to provide adequate support for the structural stability of buildings, roads, slopes, structures, pipes, lighting posts, utility services or similar installations adjacent to the excavation so as to prevent the public or any person from being endangered by a fall or displacement of earth, rock or other material. In its excavation work, HKCTV will be the permittee, that is the holder of a principal excavation permit or principal emergency excavation permit. HKCTV supports the spirit and the rationale behind the enactment of the proposed section 10Q(1) as this will enhance the safety standard at excavation sites and protect the public and other persons from the possible danger at such sites. HKCTV only has reservation on the penalty imposed by section 10Q(2) for the contravention of section 10Q(1).
- 2.2 Under the proposed section 10Q(2), a permittee and nominated permittee who contravenes section 10Q(1) shall each be liable to a fine at level 5 (currently at \$50,000) and to imprisonment for 6 months.
- 2.3 It is HKCTV's submission that a fine of \$50,000, under the current difficult economic environment, is already a sufficient penalty to ensure compliance with section 10Q(1) and to prevent inadvertent violation of the Ordinance. In other words, the absence of imprisonment in the proposed section 10Q(2) will not weaken the deterrent effect of the Bill significantly.

III. Conclusion

3.1 In short, while HKCTV supports the spirit of the proposed section 10Q(1) and the Government's initiative in ensuring safety of the public and other persons near an excavation site, the imposition of imprisonment for 6 months in section 10Q(2) is unnecessarily harsh. It is HKCTV's submission that the fine of \$50,000 is already a sufficient penalty to prevent inadvertent violation of section 10Q(1) and the removal of the penalty of imprisonment in section 10Q(2) will not weaken the deterrent effect of the Bill significantly.

Yours sincerely,

Allen Law
General Manager
OSP Engineering and Construction