

BY FAX & BY POST

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

CB1/BC/10/01

OPS/P&BAO/kcc2002-10

2888 7671

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24 October 2002

Dear Hon Lau Ping-cheung,

Land (Miscellaneous Provisions) (Amendment) Bill 2002

We refer to the Land (Miscellaneous Provisions) (Amendment) Bill 2002 Committee meeting held on September 19, 2002 and the request raised by the Committee in the meeting on the clarification of legal issues by the Government to the concerned road opening parties. The Government has held three briefing sessions with the concerned road opening parties on September 27, 2002, October 18, 2002 and October 22, 2002.

Although many of our concerns have been discussed in these briefings, PCCW-HKT still has the following concerns and would like the Committee to look into:

1. The Proposed Section 10F(c)

The proposed requirement of the approval by the Authority regarding the nomination of a contractor as a nominated permittee is considered inappropriate.

In the absence of a time frame for the grant of approval, the approval requirement may mean unnecessary delay for the excavation works involved. Moreover, there may be the possibility that we may have to disclose our bidder list to the Authority before we send out our invitation to tender. As you may be aware, the same contractor may be the nominated permittee for different permittees of a principal excavation permit. In this respect, our nominated permittee may have to stop all the excavation work for our company if the Authority withdraws its approval as a result of its poor performance for other permittees. This will greatly disturb the commercial operation of our company.

In view of the above, we suggest to amend the Bill to the effect that no approval by the Authority is required for the nomination of nominated permittee.

2. Section 10Q. (2)

It is our practice to impose an obligation upon our excavation work contractor that such contractor to comply with all relevant laws in relation to excavation works. In carrying out excavation works, PCCW-HKT has to rely upon the professional skills of the nominated permittee. Such contractor is then expected to ensure that it shall comply with the

relevant contractual obligations and the relevant. The introduction of criminal sanction against a permittee under section 10Q(2) is unfair. If the contractor fails to comply with section 10Q(1), such contractor alone shall be liable to criminal sanction. In this respect, we would suggest that no criminal sanction should be imposed upon a permittee and section 10Q should be amended. Where section 10Q(2) is left unamended, we would suggest that either a subsection should be added to section 10Q that (a) lays down objective standard for "reasonable steps" as referred to in section 10Q(2); or (b) requires the Authority to issue guidelines and/or codes of practice in relation to the expression "took all reasonable steps and exercised all due diligence".

Yours faithfully

Cheung Kwok Chi
A/General Manager
Outside Plant Services Branch

cc Members of the Bill Committee
Ir Dr Hon Raymond Ho Chung Tai, JP
Hon Eric Li Ka Cheung, JP
Hon Fred Li Wah Ming, JP
Hon Margaret Ng
Hon Miriam Lau Kin Yee, JP
Hon Emily Lau Wai Hing, JP
Dr Hon Tang Siu Tong, JP
Hon Abraham Shek Lai Him, JP
Hon Albert Chan Wai Yip
Hon Ip Kwok Him, JP
Hon Andrey Eu Yuet Mee, SC, JP

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HK Cable Tel Ltd	Mr Allen Law	2112 7810
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