

立法會
Legislative Council

LC Paper No. CB(1)2048/02-03
(These minutes have been seen
by the Administration)

Ref: CB1/BC/11/01/2

**Bills Committee on
Telecommunications (Amendment) Bill 2002**

**Meeting on
Friday, 13 June 2003, at 8:30 am
in Conference Room B of the Legislative Council Building**

- Members present** : Hon SIN Chung-kai (Chairman)
Hon Eric LI Ka-cheung, JP
Hon CHAN Kwok-keung
Hon Howard YOUNG, JP
Hon YEUNG Yiu-chung, BBS
Hon Emily LAU Wai-hing, JP
Hon Abraham SHEK Lai-him, JP
Hon Albert CHAN Wai-yip
Hon MA Fung-kwok, JP
- Members absent** : Dr Hon David CHU Yu-lin, JP
Hon Fred LI Wah-ming, JP
- Public officers
Attending** : Mr Francis HO, JP
Permanent Secretary for Commerce, Industry and
Technology
(Information Technology and Broadcasting)
- Mrs Marion LAI, JP
Deputy Secretary for Commerce, Industry
Technology
(Information Technology and Broadcasting)
- Ms Gracie FOO
Principal Assistant Secretary for Commerce, Industry
and Technology
(Information Technology and Broadcasting)

Miss Linda SO
Assistant Secretary for Commerce, Industry and
Technology
(Information Technology and Broadcasting)

Mr M H AU, JP
Deputy Director-General of Telecommunications

Mr Edward WHITEHORN
Head, Competition Affairs Branch, Office of the
Telecommunications Authority

Mr Michael LAM
Senior Government Counsel, Department of Justice

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

Staff in attendance : Miss Connie FUNG
Assistant Legal Adviser 3

Ms Debbie YAU
Senior Assistant Secretary (1)1

I Confirmation of minutes

LC Paper No. CB(1)1919/02-03 - Minutes of 12th meeting on 23 May
2003

The minutes of the 12th meeting on 23 May 2003 were confirmed.

II Committee Stage Amendments proposed by Hon SIN Chung-kai

LC Paper No. CB(1)1934/02/03(01) - Note on Thresholds Adopted by
(tabled and subsequently circulated to members on 13 June 2003) Competition Authorities in
Examining Mergers and Acquisitions
in Overseas Jurisdictions

LC Paper No. CB(1)1955/02-03(01) - Committee Stage Amendments
proposed by Hon SIN Chung-kai (as
at 12 June 2003) (English version
only)

- LC Paper No. CB(1)1903/02-03(02) - Powerpoint presentation material on the Bill provided by Hon SIN Chung-kai
- LC Paper No. CB(1)1903/02-03(03) - Letter from Consumer Council on Regulation of Mergers and Acquisitions in the Telecommunications Market (English version only)
- LC Paper No. CB(1)1858/02-03 - Report of the Bills Committee for the House Committee meeting on 6 June 2003
- LC Paper No. CB(1)1939/02-03(01) - *"Major issues covered by the (Chinese version tabled and subsequently circulated to members on 13 June 2003) Administration's proposal and the proposed CSAs by Hon SIN Chung-kai" prepared by the Secretariat*
- CB(1)1955/02-03(02) - *(tabled and subsequently circulated to members on 13 June 2003)* Letter from the telecommunications operators on "Response to the Administration's note on Thresholds Adopted by Competition Authorities in Examining Mergers and Acquisitions in Overseas Jurisdictions" (English version only)

2. The Bills Committee deliberated. (Index of proceedings attached at **Appendix**)

3. Members noted that the Administration requested more time to study the revised Committee Stage Amendments (CSAs) proposed by Hon SIN Chung-kai and suggested to hold a further meeting on 19 June 2003, which was only one clear day before the deadline for giving notice of CSAs for the resumption of Second Reading debate on the Bill on 2 July 2003. In this connection, members noted that according to the legislative timetable, if resumption was to take place on 2 July 2003, the Bills Committee had to report to the House Committee on 13 June 2003 and the Administration had to give notice of resumption on 16 June 2003.

4. The Bills Committee had no objection to holding a further meeting on 19 June 2003 as requested. However, pending the outcome of the meeting on 19 June 2003, members considered it inappropriate to support the Administration's giving notice of resumption on 16 June 2003 as the Administration had yet to give its further comments on the proposed CSAs and the Bills Committee had yet to decide on the way forward. Some members queried the need for such a rush just for the sake of enabling the resumption of Second Reading debate to take place on 2 July 2003.

5. After discussion, the Bills Committee agreed that the legislative timetable should be adhered to. Members also agreed in principle that resumption of Second Reading debate on the bill could take place within the current legislative session. As such, they supported the resumption of Second Reading debate on the Bill on 9 July 2003. The Bills Committee would report to the House Committee on 20 June 2003 after its meeting on 19 June 2003.

III Any other business

6. There being no other business, the meeting ended at 9:40 am.

Council Business Division 1
Legislative Council Secretariat
23 June 2003

**Proceedings of the meeting of the
Bills Committee on Telecommunications (Amendment) Bill 2002
on Friday, 13 June 2003, at 8:30 am
in Conference Room B of the Legislative Council Building**

Time Marker	Speaker	Subject(s)	Action Required
000000 - 000155	Chairman	(a) Introductory remarks and confirmation of minutes of meeting on 23 May 2003. (b) Members noted the revised Committee Stage Amendments (CSAs) proposed by Hon SIN Chung-kai (as at 12 June 2003) tabled at the meeting.	
000156 - 000649	Mr Howard YOUNG	Stance of Members of the Liberal Party: (a) Agreed that the Bills Committee could move in its name the CSAs relating to the thresholds in the change of control if the Administration decided not to move it. (b) Supported the Administration's proposal that Telecommunications Authority (TA) was the primary authority for reviewing mergers and acquisitions (M&As). However, time limits for TA in reviewing M&As should be shortened and the industry should be involved in formulating the Guidelines on the competition analysis of mergers and acquisition in telecommunications markets. (c) Supported a cap on the costs recoverable by TA in processing applications for prior consent to proposed M&As but the amount specified in the new Schedule 3 might be set higher.	
000650 - 001412	Chairman Mr Abraham SHEK Mr Eric LI Administration	(a) Mr Abraham SHEK supported the Bills Committee to move in its name the CSAs currently put up by Hon SIN Chung-kai if the Administration decided not to move them. (b) Mr Eric LI objected to the introduction of the Bill as it was not conducive to attracting investment. He supported the proposed CSAs because they helped mitigate the adverse impact of the Bill. For example, raising the thresholds in change of control from 15% to 30% might be able to attract new strategic investors, mostly overseas investors, to the telecommunications market.	

Time Marker	Speaker	Subject(s)	Action Required
001413 - 001928	Chairman Assistant Legal Adviser (ALA) 3	ALA3 suggested members to: (a) consider the proposed CSAs in the context of the objectives and scope of the Bill; (b) assess the implementation difficulties, if any, of the provisions; and (c) consider whether the proposed CSAs, such as conferring on the Telecommunications (Competition Provisions) Appeal Board (Appeal Board) the power to regulate M&As and capping the recovery of costs incurred in processing applications for prior consent to proposed M&As, had any charging effect.	
001929 - 002259	Chairman Administration	Date of resumption of Second Reading debate on the Bill and the legislative timetable.	
002300 - 002536	Mr Albert CHAN Chairman	Mr Albert CHAN expressed support for the proposed CSAs on the regulatory roles of TA and the Appeal Board. He needed more time to consider the CSAs relating to raising the thresholds in change of control from 15% to 30%.	
002537 - 002727	Chairman Clerk Administration Mr Eric LI	Date of resumption of Second Reading debate on the Bill and the legislative timetable.	
002728 - 003230	Chairman Administration Mr MA Fung-kwok Mr Abraham SHEK	Mr MA Fung-kwok supported the proposed CSAs relating to the thresholds in change of control if the Administration would not revise the thresholds.	
003231 - 010202	Ms Emily LAU Chairman Administration Mr Albert CHAN Mr Abraham SHEK Mr Eric LI	(a) Whether to support the Administration's giving notice for resumption on 16 June 2003 (for the Second Reading debate to resume on 2 July 2003) pending the outcome of the 15 th meeting on 19 June 2003. (b) Need for prudent scrutiny and consultation. (c) Ms Emily LAU stressed the need to observe established procedures and adhere to the legislative timetable in scrutinizing the Bill, unless there was very good justification for deviation. (d) Date of resumption of Second Reading debate on the Bill and the legislative timetable. (e) Date of next meeting: 19 June 2003, at 8:30 am.	Members' decision as per paragraphs 3 to 5 of the minutes.