

立法會
Legislative Council

LC Paper No. CB(1) 2472/01-02
(These minutes have been
seen by the Administration)

Ref: CB1/BC/11/01

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

**Meeting on
Thursday, 25 July 2002, at 4:30 pm
in the Chamber of the Legislative Council Building**

- Members present** : Hon SIN Chung-kai (Chairman)
Hon Fred LI Wah-ming, JP
Hon Howard YOUNG, JP
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 Eric LI Ka-cheung, JP
Hon CHAN Kwok-keung
Hon YEUNG Yiu-chung, BBS
- Public officers
Attending** : Ms Eva CHENG, JP
Acting Permanent Secretary for Commerce,
Industry and Technology
(Information Technology and Broadcasting)
- Mr M H AU, JP
Deputy Director-General of Telecommunications
- Miss Linda SO
Acting Principal Assistant Secretary for
Commerce, Industry and Technology
(Information Technology and Broadcasting)

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

Staff in attendance : Miss Connie FUNG
Assistant Legal Adviser 3

Ms Rosalind MA
Senior Assistant Secretary (1)9

I Confirmation of minutes

(LC Paper No. CB(1)2313/01-02)

The minutes of meeting held on 12 July 2002 were confirmed.

II Meeting with the Administration

- (LC Paper No. CB(3)593/01-02 - The Bill
- File Ref : ITBB(CR) 7/13/14(02) Pt. 3 - The Legislative Council Brief issued by the Information Technology and Broadcasting Bureau on 3 May 2002
- LC Paper No. LS90/01-02 - The Legal Service Division Report on the Bill
- LC Paper No. CB(1)2256/01-02(02) - Extracts from the minutes of the House Committee meeting on 17 May 2002
- LC Paper No. CB(1)2256/01-02(03) - Marked-up copy of the Bill
- LC Paper No. CB(1) 2104/01-02 - Background brief on Telecommunications (Amendment) Bill 2002 prepared by the Legislative Council Secretariat
- LC Paper No. CB(1)2256/01-02(04) - Submission from New World PCS Limited (English version only)
- LC Paper No. CB(1)2256/01-02(05) - Submission from SmarTone Telecommunications Holding Limited (English version only)

LC Paper No. CB(1)2256/01-02(06) - Submission from SUNDAY
(English version only)

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

Issues which required follow-up action/consideration by the Administration

3. At members' request, the Administration agreed to provide the following information to the Bills Committee:

- (a) Preliminary draft guidelines on merger and acquisition activities in the telecommunications market issued in April 2001.
(*Post-meeting note*: the draft guidelines were re-circulated for members' reference on 29 July 2002 vide LC Paper No. CB(1)2367/01-02.)
- (b) The terms of reference, membership of the Telecommunications (Competition Provisions) Appeal Board, as well as information on the appeal cases handled by the Appeal Board.
- (c) To include the following information in the comparative study on overseas practices:
 - (i) "Competition test" and factors for consideration by the respective regulators in analyzing the effects on competition of a particular merger or acquisition activity in the telecommunications market;
 - (ii) the extent to which the guidelines on the basis for assessment of the potential effect of the merger and acquisition activities on market competition were incorporated into legislation; and
 - (iii) powers of the respective regulators in respect of regulation of merger and acquisition activities and built-in checks and balances on these powers.

Admin

4. The Administration would consider Mr Albert CHAN's suggestion that important issues and requirements contained in the guidelines on merger and acquisition activities in the telecommunications market should be incorporated into legislation.

Admin

5. Ms Emily LAU requested to put on record her view that she supported the introduction of a universal, instead of a sector-specific, competition law. The Acting Permanent Secretary for Commerce, Industry and Technology (Information Technology and Broadcasting) undertook to forward Ms LAU's view to the Economic Development and Labour Bureau for consideration.

Date of next meeting

6. Members agreed that the next meeting of the Bills Committee would be re-scheduled from Tuesday, 17 September 2002 to Monday, 7 October 2002 at 2:30 pm. The Bills Committee would receive oral presentations from deputations at the meeting.

III. Any other business

7. There being no other business, the meeting ended at 5:15 pm.

Legislative Council Secretariat
5 September 2002

Appendix

Bills Committee on Telecommunications (Amendment) Bill 2002

**Meeting on Thursday, 25 July 2002 at 4:30 pm
in the Chamber of the Legislative Council Building**

Time	Speaker	Subject(s)	Action required
000000 - 000110	Chairman	Introductory remarks and confirmation of minutes of meeting held on 12 July 2002	
000110 - 001314	Administration	Briefing on the proposals of the Bill	
001314 - 002025	Chairman Administration Ms Emily LAU	Guidelines for the industry setting out the basis for assessing the potential effect of merger and acquisition activities on market competition : (a) status of the guidelines (b) requirements for the Telecommunications Authority (TA) to consult the industry on the proposed guidelines (c) the Administration would welcome views from the Bills Committee and the deputations on the draft guidelines (d) Preliminary draft guidelines issued in April 2001 to be re-circulated to members for reference	Admin
002025 - 002316	Ms Emily LAU Administration	Checks and balances on the regulatory powers of TA and the desirability of setting up an independent body to deal with the regulation of merger and acquisition activities	
002316 - 002337	Ms Emily LAU Administration	The Administration to provide further information on the Telecommunications (Competition Provisions) Appeal Board	Admin

Time	Speaker	Subject(s)	Action required
002337 - 002556	Chairman Administration	The Administration to provide comparison with overseas jurisdictions relating to the factors to be considered by the respective regulators in analyzing the effects on competition of a particular merger or acquisition activity in the telecommunications market	Admin
002556 - 002859	Mr Fred LI Administration	(i) Principles governing the regulation of mergers and acquisitions in the telecommunications market (ii) Pros and cons of a light-handed approach in the regulation of the telecommunications market	
002859 - 003514	Mr Albert CHAN Administration Chairman	Guidelines for the industry setting out the basis for assessing the potential effect of the merger and acquisition activities on market competition: (a) factors for consideration in defining the market share of a particular operator (b) requirements for TA to consult the industry on the proposed guidelines	
003514 - 003933	Mr Albert CHAN Administration Chairman	Incorporation of the guidelines on the basis for assessing the potential effect of the merger and acquisition activities on market competition into legislation: (a) important issues and requirements contained in the guidelines should be incorporated into subsidiary legislation (b) the Administration to examine overseas practices in the incorporation of the guidelines into subsidiary legislation and to consider the suggestion in (a) above	Admin

Time	Speaker	Subject(s)	Action required
003933 - 004040	Mr Abraham SHEK	To cater for rapid changes in the telecommunications market, requirements on mergers and acquisitions should more appropriately be set out in guidelines rather than legislation as legislative amendments would be more time-consuming and might not serve the immediate needs of the industry	
004040 - 004048	Chairman	Enacting subsidiary legislation was not necessarily time-consuming	
004048 - 004241	Ms Emily LAU	(i) Checks and balances on the regulatory powers of the Telecommunications Authority (ii) Legislation on mergers and acquisitions and competition matters should be universal rather than sector-specific	
004241 - 004324	Administration	(i) The Administration to provide information on overseas practices in relation to powers of the respective regulators and built-in checks and balances on these powers. (ii) The Administration to forward Ms LAU's view about universal competition law to the Economic Development and Labour Bureau	Admin Admin
004324 - 004653	Chairman Members	To facilitate attendance of those members who took part in the overseas duty visit of the Planning, Lands and Works Panel, the next meeting would be re-scheduled to be held on Monday, 7 October 2002 at 2:30 pm	

Note: The audio records of the above proceedings are kept at the Legislative Council Library