

**立法會**  
**Legislative Council**

LC Paper No. CB(1) 174/02-03  
(These minutes have been seen  
by the Administration)

Ref: CB1/BC/11/01/2

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

**Meeting on  
Monday, 7 October 2002, at 2:30 pm  
in the Chamber of the Legislative Council Building**

- Members present** : Hon SIN Chung-kai (Chairman)  
Hon Fred LI Wah-ming, JP  
Hon CHAN Kwok-keung  
Hon Howard YOUNG, JP  
Hon YEUNG Yiu-chung, BBS  
Hon Emily LAU Wai-hing, 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 Abraham SHEK Lai-him, JP
- Public officers  
Attending** : Ms Eva CHENG, JP  
Deputy Secretary for Commerce, Industry and  
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  
Acting 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

**Attendance by  
invitation**

**: Hutchison Global Communications Limited**

Ms Agnes MIU  
Director of Legal & Regulatory

Mr Thomas YAU  
Senior Manager  
Regulatory and Commercial

**Hutchison Telecommunications (Hong Kong)  
Limited**

Ms Agnes NARDI  
Managing Director

Ms Patricia HUI  
Legal Counsel

**PCCW Limited**

Mr Stuart CHIRON  
Director of Regulatory Affairs

Mr William BROWN  
General Manager Regulatory Compliance

**Smartone Mobile Communications Limited**

Mr Patrick K L CHAN  
Executive Director

Mr Stephen CHAU  
Chief Technology Officer

**SUNDAY**

Mr Bruce HICKS  
Group Managing Director

Mr CHEUNG Wai Lok  
Group Director Legal & Regulatory Affairs

**Telstra Corporation Limited and  
Hong Kong CSL Limited**

Mr Simon BROOKES  
General Counsel, International  
Telstra Corporation Limited

Mr Hubert NG  
Chief Executive Officer  
Hong Kong CSL Limited

**Consumer Council**

Mr Ron Cameron  
Principal Trade Practice Officer

Mr Victor HUNG  
Chief Trade Practice Officer

**Hong Kong University of Science and  
Technology**

Professor XU Yan

**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

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**I Confirmation of minutes**  
(LC Paper No. CB(1)2313/01-02)

The minutes of meeting held on 25 July 2002 were confirmed.

**II Meeting with deputations and the Administration**

Meeting with deputations

**Telecommunications Operators**

- LC Paper No. CB(1)2548/01-02(01) - Joint submission from Hutchison Global Communications Limited, New World Telephone Limited and Wharf New T&T Limited
- LC Paper No. CB(1)2548/01-02(02) - Submission from Hutchison Telecommunications (HK) Limited
- LC Paper No. CB(1)2496/01-02(01) - Submission from PCCW Limited
- LC Paper No. CB(1)2619/01-02(01) - Submission from Smartone Mobile Communications Limited
- LC Paper No. CB(1)2632/01-02(01) - Submission from SUNDAY
- LC Paper No. CB(1)2548/01-02(03) - Submission from Telstra Corporation Limited and Hong Kong CSL Limited
- LC Paper No. CB(1)2632/01-02(02) - Presentation material from Telstra Corporation Limited and Hong Kong CSL Limited

**Other Parties**

- LC Paper No. CB(1)2619/01-02(02) - Submission from Consumer Council
- LC Paper No. CB(1)2632/01-02(03) - Submission from Professor XU Yan of the Hong Kong University of Science and Technology

**Submissions from the following parties not attending the meeting**

- LC Paper No. CB(1)2496/01-02(02) - Submission from Mr YEUNG Wai-sing, Eastern District Council Member
- LC Paper No. CB(1)2632/01-02(04) - Submission from New World PCS Limited
- LC Paper No. CB(1)2661/01-02(05) - Submission from Hong Kong Telecommunications Users Group

Meeting with the Administration

- LC Paper No. CB(1)2619/01-02(05) - Information paper on "Regulation of Mergers and Acquisition Activities in Overseas Jurisdiction" provided by the Administration in response to members' request at the 25 July 2002 meeting
- LC Paper No. CB(1)2619/01-02(06) - "Supplementary Information on Telecommunications (Competition Provisions) Appeal Board" provided by the Administration in response to members' request at the 25 July 2002 meeting

Other relevant papers

- 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)2619/01-02(03) - Letter dated 23 August 2002 from the Assistant Legal Adviser (ALA) to the Administration
- LC Paper No. CB(1)2619/01-02(04) - Reply dated 30 September 2002 from the Administration to ALA's letter dated 23 August 2002

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

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

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

- (a) a detailed written response to concerns raised by deputations; and
- (b) further details of the draft guidelines on the criteria for assessing the potential effect of the merger and acquisition activities on market competition, including some members' concern about the definition of market.

Admin 4. Noting the concern shared by members and deputations about the need to scrutinize the proposed guidelines on the criteria for assessing the potential effect of the merger and acquisition activities on competition in the telecommunications market (the Guidelines), the Chairman requested the Administration to consider the suggestion of making the Guidelines subsidiary legislation. The Administration agreed to consider the suggestion.

Date of next meeting

5. Members agreed that the next meeting of the Bills Committee would be scheduled for Wednesday, 6 November 2002 at 10:45 am.

**III Any other business**

6. There being no other business, the meeting ended at 4:15 pm.

**Proceedings of the meeting of the  
Bills Committee on Telecommunications (Amendment) Bill 2002  
Meeting on Monday, 7 October 2002, at 2:30 pm  
in the Chamber of the Legislative Council Building**

| <b>Time</b>     | <b>Speaker</b>   | <b>Subject(s)</b>   | <b>Action required</b>                                    |
|-----------------|--|---|---|
| 000000 - 000246 | Chairman   | Introductory remarks and confirmation of minutes of meeting held on 25 July 2002.   |   |
| 000246 - 000842 | Hutchison Global Communications Limited (Hutchison Global)           | Presentation of views.  |   |
| 000842 - 000914 | Ms Emily LAU<br>Hutchison Global Chairman                            | The deputation to provide speaking note for members' reference.                     | Issued to members vide LC Paper No. CB(1) 2668/01-02(01). |
| 000914 - 001448 | Hutchison Telecommunications (Hong Kong) Limited (Hutchison Telecom) | Presentation of views.  |   |
| 001448 - 002328 | PCCW Limited (PCCW)  | Presentation of views.  |   |
| 002328 - 002620 | Smartone Mobile Communications Limited (Smartone)                    | Presentation of views.  |   |
| 002620 - 003412 | SUNDAY   | Presentation of views.  |   |
| 003412 - 004120 | Telstra Corporation Limited (Telstra) and Hong Kong CSL Limited      | Presentation of views.  |   |
| 004120 - 004608 | Consumer Council   | Presentation of views.  |   |
| 004608 - 005006 | Professor XU Yan of Hong Kong University of Science and Technology   | Presentation of views.  |   |
| 005006 - 005350 | Mr Howard YOUNG<br>Hutchison Global<br>Hutchison Telecom             | Asked whether there should be an independent body for M&A regulation other than TA. |   |

|                 |  |  |  |
|-----------------|--|--|--|
| 005350 - 005702 | Mr Albert CHAN<br>Hutchison Telecom  | Need to monitor M&A activities in the telecommunications market to prevent monopolization.   |  |
| 005702 - 005916 | Ms Emily LAU<br>Hutchison Telecom  | Asked whether there should be an independent body for M&A regulation other than TA.  |  |
| 005916 - 010716 | Ms Emily LAU<br>Hutchison Telecom<br>Hutchison Global<br>Telstra<br>Consumer Council | (a) Impact of M&A regulation on investors' confidence in the telecommunications industry.<br>(b) Whether sector-specific M&A regulation was adopted in overseas jurisdictions.<br>(c) Whether TA had the necessary expertise to deal with M&A. |  |
| 010716 - 010856 | Mr YEUNG Yiu-chung<br>Hutchison Global   | (a) M&A regulation was enforced by a general competition authority in overseas jurisdictions.<br>(b) The deputation did not consider it appropriate to introduce general competition law in Hong Kong.   |  |
| 010856 - 011125 | Mr Fred LI   | (a) Members of Democratic Party supported universal competition law.<br>(b) Activities taking place at the level of the holding company were not covered by the current licence conditions and legislation.                                    |  |
| 011125 - 011533 | PCCW<br>Chairman<br>Hutchison Global   | (a) Uncertainty of the proposed M&A regulation.<br>(b) Codifying existing  |  |



|                 |                                  |   |                   |
|-----------------|----------------------------------|---|-------------------|
|                 |                                  | <p>licence conditions on M&amp;A for 3G mobile service for other carrier licences.</p> <p>(c) Whether it would suffice to regulate anti-competitive conduct resulting from M&amp;A instead of M&amp;A per se.</p>                     |                   |
| 011533 - 011845 | Mr Fred LI<br>Chairman<br>PCCW   | Regulating anti-competition conduct without the proposed M&A regulation.  |                   |
| 011845 - 012304 | Ms Emily LAU<br>Consumer Council | <p>(a) Impact of M&amp;A regulation on investors' confidence in the telecommunications market.</p> <p>(b) Independent body for M&amp;A regulation (such as in Australia) where there was universal competition law.</p>               |                   |
| 012304 - 012341 | Chairman                         | Thanked deputations and invited the Administration to give initial response.  |                   |
| 012341 - 012708 | Administration                   | <p>(a) Need to regulate activities taking place at the level of the holding company.</p> <p>(b) Noted the concerns about the Guidelines.</p> <p>(c) Undertook to provide a detailed written response to deputations' submissions.</p> | Admin             |
| 012708 - 012812 | Chairman<br>Administration       | Incorporation of the Guidelines into legislation.   | Admin to consider |
| 012812 - 013100 | Mr Howard YOUNG                  | <p>(a) Members of Liberal Party were prepared to consider sector-specific M&amp;A regulation and considered general competition law unnecessary for Hong Kong.</p> <p>(b) Comment on the threshold on percentage</p>                  |                   |

|                 |  |  |       |
|-----------------|--|--|-------|
|                 |  | of market share held by the licensee.  |       |
| 013100 - 013202 | Administration                             | The Administration would make reference to thresholds adopted in other overseas jurisdictions in drafting the Guidelines. The percentage of market share would be one of the factors for considering the effect on competition.    |       |
| 013202 - 013300 | Chairman                                   | Extensive consultation on the draft Guidelines should be conducted.  |       |
| 013300 - 013336 | Administration                             | Undertook to provide to members further details of the draft Guidelines, including some members' concern about the definition of market.   | Admin |
| 013336 - 013549 | Mr Howard YOUNG<br>Administration          | Computation of percentage of market share of a licensee.   |       |
| 013549 - 013720 | Ms Emily LAU                               | (a) Whether the Bill was adequate in regulating all M&A activities which would have anti-competition effect on the telecommunications market.<br>(b) Whether TA should be given power to issue injunctions to stop M&A activities. |       |
| 013720 - 013900 | Administration                             | (a) M&A activities outside the telecommunications market would not be covered by the Bill.<br>(b) Power to issue injunction not needed because of the ex post approach.  |       |
| 013900 - 013943 | Smartone<br>Chairman                       | Concern about incorporation of the Guidelines into legislation.  |       |
| 013943 - 014038 | Administration<br>Ms Emily LAU<br>Chairman | Requirement for TA to consult the industry on the proposed guidelines.   |       |

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|-----------------|--|--|--|
| 014228 - 014446 | Mr CHAN Kwok-keung<br>Administration<br>Chairman | (a) Whether TA would be the appropriate body to oversee M&A regulation.<br>(b) TA had the necessary expertise.<br>(c) Checks and balances on the power of TA.<br>(d) Membership of the Telecommunications (Competition Provisions) Appeal Board. |  |
| 014446 - 014600 | Chairman<br>Ms Emily LAU                         | Date of the next meeting.  |  |

**Note : The audio records of the above proceedings are kept at the LegCo Library**