

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

**Supplementary Information on
Telecommunications (Competition Provisions) Appeal Board**

Introduction

At the meeting of 25 July 2002, Members requested the Administration to provide the terms of reference, membership as well as information on the appeal cases handled by the Telecommunications (Competition Provisions) Appeal Board. The requested information is set out below. Members may also download latest information about the Appeal Board and the appeal cases being heard from our website www.info.gov.hk/itbb.

Terms of Reference

2. The Telecommunications (Competition Provisions) Appeal Board is the first ever sector-specific appeal board on competition matters in Hong Kong. It provides an independent avenue for aggrieved parties to review the decision of the Telecommunications Authority on competition matters. Its terms of reference are as follows:

- (a) to hear appeal by any person aggrieved by an opinion, determination, direction or decision of the Telecommunications Authority relating to section 7K-7N of the Telecommunications Ordinance (Cap. 106) or any licence condition relating to any such section, or any sanction or remedy imposed by the TA as a consequence of a breach of such section or licence condition (reference: section 32N(1) of Telecommunications Ordinance); and
- (b) to determine appeal by upholding, varying or quashing the appeal subject matter and make consequential orders (reference: section 32O(4) of Telecommunications Ordinance).

Membership

3. The Chairman and any Deputy Chairmen of the Telecommunications (Competition Provisions) Appeal Board should be persons eligible to be appointed a judge of the High Court. In the hearing of an appeal, the Appeal Board shall consist of –

- (i) The Chairman or a Deputy Chairman who shall preside at the hearing; and
- (ii) 2 panel members appointed by the Chairman or Deputy Chairman.

4. Members of the Appeal Board were appointed by the Chief Executive with effect from 31 August 2001 for a two-year term. Its current membership is set out as follows:

- Mr John Calvert Griffiths, S.C., C.M.G., Q.C. as the Chairman. Mr Griffiths is a former Attorney General and a practising Senior Counsel. He had served as Official Member of the Executive and Legislative Councils, and Chairman of the Hong Kong Law Reform Commission.
- Mr Neil Kaplan, Q.C., S.C., J.P. as the Deputy Chairman. Mr Kaplan is a former High Court Judge of the Judiciary. He is the Chairman of Hong Kong's Review Body on Bid Challenges under the World Trade Organisation and the Chairman of the Hong Kong International Arbitration Centre.
- As Panel Members :-

Professor Andrew CHAN Chi Fai

Dr John HO Dit Sang

Dr Jane LEE Ching Yee

Professor TSANG Shu Ki

Mr Benjamin YU, S.C.

Panel Members have extensive expertise and experience in legal, economics and consumer services.

Information on Cases Handled by the Appeal Board

5. Since its establishment in August 2001, the Telecommunications (Competition Provisions) Appeal Board has received five cases. Appeal Board processed three of the cases, and convened pre-hearings/hearings with the appellant and the Telecommunications Authority. The appellant subsequently withdrew the **first two** appeal cases, after pre-hearing meetings convened by the Chairman with the two sides to accept the withdrawal. The appellant proposed to withdraw the **third** case, after pre-hearings/hearings by the Appeal Board. The Appeal Board will reconvene to consider any further deputation by the two sides (including points of law and the question of cost) and to consider the withdrawal. The **fourth** and **fifth** cases are awaiting a hearing.

Commerce, Industry and Technology Bureau
30 September 2002