

立法會
Legislative Council

LC Paper No. CB(1)2182/01-02

(These minutes have been
seen by the Administration)

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Legislative Council
Panel on Information Technology and Broadcasting

Minutes of meeting
held on Monday, 10 June 2002, at 2:30 pm
in the Chamber of the Legislative Council Building

- Members present** : Hon SIN Chung-kai (Chairman)
Hon Howard YOUNG, JP (Deputy Chairman)
Hon Kenneth TING Woo-shou, JP
Dr Hon David CHU Yu-lin, JP
Hon CHAN Kwok-keung
Dr Hon Philip WONG Yu-hong
Hon YEUNG Yiu-chung, BBS
Hon Emily LAU Wai-hing, JP
Hon Timothy FOK Tsun-ting, SBS, JP
Hon MA Fung-kwok
- Members absent** : Hon Eric LI Ka-cheung, JP
Hon LAW Chi-kwong, JP
Hon Albert CHAN Wai-yip
- Public officers attending** : Agenda Items IV, V & VI

Mrs Carrie YAU, JP
Secretary for
Information Technology and Broadcasting

Mr A S K WONG, JP
Director-General of Telecommunications

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

Ms Eva CHENG, JP
Deputy Secretary for
Information Technology and Broadcasting

Ms Gracie FOO
Principal Assistant Secretary for
Information Technology and Broadcasting (E)

Agenda Item V

Mr Y K HA
Assistant Director of Telecommunications

Agenda Item VI

Mr Albert LI
Project Director, Office of the
Telecommunications Authority

By Invitation

Agenda Item IV

- Local FTNS operators

Hong Kong Broadband Network Limited

Mr Ricky WONG
Chairman

Ms Elsa CHEUNG
Associate Director,
Carrier & Regulatory Affairs

Hutchison Global Crossing Limited

Mr Charles YIP
General Manager,
China Market & Regulatory Affairs

Ms Agnes MIU
Director of Legal & Regulatory

New World Telephone Limited

Mr CHAN Chun-ming
Head,

Carrier and Interconnect Development
Mr Thomas LEUNG
Director, Marketing

PCCW-HKT Telephone Limited

Mr Stuart CHIRON
Director of Regulatory Affairs

Mr Peter LAM
Director of Wholesale Marketing

Wharf New T&T Limited

Mr Tony CHEUNG
Vice President, Consumer Market

Ms Agnes TAN
Director, Legal, Regulatory & Carrier
Affairs

- Concern Group

Hong Kong Consumer Council

Mr Ron CAMERON
Principal Trade Practices Officer

Mr Victor HUNG
Chief Trade Practices Officer

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

Staff in attendance : Ms Debbie YAU
Senior Assistant Secretary (1)1

I Confirmation of minutes and matters arising
(LC Paper No. CB(1)1930/01-02)

The minutes of the Panel meeting held on 13 May 2002 were confirmed.

II Date and items for discussion for next meeting
(LC Paper Nos. CB(1)1929/01-02(01) and (02))

2. Members agreed to discuss the following items at the next regular meeting to be held on 8 July 2002 at 2:30 pm:

- (a) Cyberport; and
- (b) E-government Programme.

Admin

3. The Administration advised that the item on digital broadcasting was not ready for discussion at next Panel's meeting. Members agreed that the Administration should provide a paper on the subject to inform the Panel of the latest progress.

(Post-meeting note: the information paper provided by the Administration was issued to members vide CB(1)2183/01-02.)

III Draft report of the Panel for 2001-02 for submission to the Council
(LC Paper No. CB(1)1929/01-02(03))

4. Members endorsed the report and authorized the Chairman and the Clerk to revise the contents of the report in the light of subsequent developments. They noted that the report would be presented to the Council on 3 July 2002.

IV Progress of interconnection issues
(LC Paper Nos. CB(1) 1453/01-02(01), 1757/01-02, 1929/01-02(04), (05), (06), 1952/01-02(01), 1958/01-02(01))

5. The Chairman invited the Director-General of Telecommunications (DG/Tel) to brief members on the current status of interconnection in the telecommunications market.

6. DG/Tel made it clear that in order not to prejudice the fairness of determination proceedings, he would not comment on the specific issues concerning cases in progress. He introduced the Administration's paper LC Paper No. CB(1)1929/01-02(05) which depicted the existing regulatory framework for interconnection of telecommunications networks and services in Hong Kong, Type I and Type II interconnections and the determinations in progress or made by the Telecommunications Authority (TA). Specifically, he pointed out that the level of charge for Type II interconnection had been commercially agreed at HK\$42 per line per month since 1999 after TA's mediation.

Meeting with deputations

7. The Chairman welcomed the deputations and invited them to present their views on interconnection issues.

***Local Fixed Telecommunications Network Service (FTNS) Operators
Hong Kong Broadband Network Limited (HKBN)
(LC Paper No. CB(1) 1757/01-02)***

8. Mr Ricky WONG highlighted the following salient points in HKBN's further submission tabled at the meeting:

- (a) Notwithstanding the presence of a self-built network covering some 900 000 households, HKBN encountered strong resistance on Type I interconnection from other FTNS operators. As commercial agreements could not be reached after several months' negotiation, HKBN sought assistance from the Office of Telecommunications Authority (OFTA) in January 2002. HKBN noted with regret that the Direction issued by the TA on 25 April 2002 only dealt with the local voice telephony service. Other services like Internet access, international direct dialling (IDD) or other value-added services were excluded.
- (b) The Government's light-handed regulatory approach had worked against the interests of consumers. OFTA should issue clearer and more definitive guidelines or codes of practice to plug the current loopholes and strengthen the enforcement of the relevant legislation. For instance, details on the time limits, capacity and charging etc for Type I interconnection should be specified in the guidelines. There should be more active participation by OFTA to regulate the market instead of relying on the operators to negotiate among themselves.

(Post-meeting note: the submission tabled by HKBN was circulated to members after the meeting vide LC Paper No. CB(1)1979/01-02(01))

***Hutchison Global Crossing Ltd.(Hutchison)
(Submission tabled at the meeting and circulated thereafter vide LC Paper No. CB(1)1979/01-02(02))***

9. Ms Agnes MIU took members through Hutchison's submission which in gist contained the following points:

- (a) Pursuant to its deliberate strategy of developing a self-built network, Hutchison had become capable of providing its own

interconnection facilities for Type I interconnection since July 2001. Hutchison had been working on the migration of Type I interconnection arrangements with PCCW-HKT Telephone Limited (PCCW-HKT) from the transmission circuit leased from PCCW-HKT to Hutchison's self-provided facilities. A full bilateral interconnection arrangement was expected to be reached in the near future.

- (b) Following the expansion of its own network, Hutchison reached its customers by direct access and had been reducing its dependence on Type II interconnection arrangements. Hutchison believed that public interests would be best served when the operators would invest in their own telecommunications infrastructure instead of sharing old facilities.

New World Telephone Ltd. (NWT)

(LC Paper Nos. CB(1) 1453/01-02(01) & CB(1)1952/01-02(01))

10. Mr Thomas LEUNG tabled his speaking note and said that the interconnection hurdles placed by PCCW-HKT had accounted for the low market share of less than 10% by the three new FTNS carriers. He highlighted the three pressing issues in relation to interconnection:

- (a) Shortly before the trial implementation of improving local access link (LAL) productivity from 9 per 2-hour per operator per exchange to a maximum of 16 (as advised by the Administration at the Panel meeting held on 10 December 2001), PCCW-HKT imposed an unreasonably high charge at the last minute. NWT considered it unreasonable that on one hand, PCCW-HKT had laid off staff on a massive scale, but on the other hand, attributed the delay in interconnection to manpower constraint.
- (b) NWT could not agree with PCCW-HKT on the terms for self-built points of interconnection (POI) between the two fixed networks. OFTA was invited to conduct mediation to resolve the disputes. As mediation by OFTA took time, NWT could not set up its own network facilities to benefit the consumers as originally intended. It was important for TA to speed up the determination process so as to safeguard against abuse.
- (c) TA's statement on broadband interconnection issued on 14 November 2000 failed to regulate the broadband service market. PCCW-HKT charged requesting operators for HK\$198 per line for broadband interconnection, which was very unreasonable because using the same copper cable, the interconnection charge for fixed telephone line services was almost five times less. Besides,

HK\$198 was close to the level of monthly fees charged by PCCW-HKT on customers using its broadband service.

(Post-meeting note: the speaking note tabled by NWT was circulated to members after the meeting vide LC Paper No. CB(1)1979/01-02(03))

PCCW-HKT Telephone Limited (PCCW-HKT)

(LC Paper No. CB(1) 1958/01-02(01). The Chinese version of the paper tabled at the meeting was circulated thereafter vide CB(1)1979/01-02)

11. Mr Stuart CHIRON explained PCCW-HKT's position as follows:
 - (a) PCCW-HKT supported facilities based competition which maximized job creation, encouraged service innovation, promoted meaningful customer choice and generated long term consumer benefits. Overseas countries including Singapore, the Netherlands, Canada and the United States had either phased out the resale of local loops or limited forced local loop resale.
 - (b) The current regulatory regime in Hong Kong seemed to favour resale competition at the expense of network investment. This approach had also resulted in a large number of complaints requiring OFTA's constant intervention. Therefore, Type II interconnection which was introduced to jump start competition in early years of market liberalization should be terminated and replaced by infrastructure investment and network competition.
 - (c) The rate of charges for local loop resale should be market-driven and not mandated by TA. A recent survey showed that PCCW-HKT's fixed network termination charges were well below those of international counterparts. This was mainly due to TA's fairly punitive and arbitrary costing standard which allowed the use of the lower of historical or current costs in computing the interconnection rates.
 - (d) The exceptionally low level of charges would continue to induce the second carriers to rely on Type II interconnection, thus forcing PCCW-HKT to subsidize other operators. Instead, the forward-looking costing methodology proposed by the Consumer Council (CC) which appropriately guided the carriers to focus on efficient network investment should be adopted. Accordingly, the costing approach needed to be reviewed.

Wharf New T & T Limited (New T & T)

12. Mr Tony CHEUNG of New T & T tabled their submission and elaborated on the views of New T & T as follows:

- (a) New T & T was highly committed to network investment and so far had invested over HK\$4.2 billion in rolling out its network which would cover some 920 000 households (45% of all households in Hong Kong) by end 2002 via direct access or interconnection.
- (b) New T & T agreed that an effective interconnection regime would promote competition and enhance efficient utilization of resources. By end 2002, New T & T, Hutchison and NWT were prepared to enter 26, 22 and 20 exchange sites respectively for access to LAL opened up by PCCW-HKT pursuant to a requirement under the Framework Agreement on cash compensation for early termination of its exclusive telecommunications licence. However, in view of the unreasonably high cost charged for Type II interconnection, New T & T would set up its own network in the long run. New T & T was of the view that the priority and location of building LALs should be decided by market demand and needs.
- (c) New T & T shared NWT's view that the trial implementation of improving LAL productivity from 9 per 2-hour per operator per exchange to a maximum of 16 had been taken by PCCW-HKT as an opportunity to impose additional charges for the extra lines under the new quota.
- (d) The process in porting numbers between wireline-based operators was cumbersome with high failure rate and excessive charges. New T & T experienced various hurdles placed by PCCW-HKT when their wireline-based consumers applied to switch to New T & T. The recent determination made by TA between New T & T and PCCW-HKT reflected that the latter had imposed unreasonable charges on the former.
- (e) To prevent the abuse of market dominance, New T & T proposed that PCCW-HKT's wholesale and retail arms should be separated into two distinct legal entities each operating different business activities. New T & T urged the Administration to seriously consider the structural separation of PCCW-HKT.

(Post-meeting note: the submission tabled by New T & T was circulated to members after the meeting vide LC Paper No. CB(1)1979/01-02(04).)

Concern Group

Consumer Council (CC)

(LC Paper No. CB(1)1929/01-02(04))

13. Mr Ron CAMERON highlighted the CC's submission as follows:
- (a) On interconnection pricing, the CC maintained that facilities based competition worked best in driving the interconnection charge to an efficient market determined level. It would help reduce the role of TA in determining interconnection charges. CC believed that a forward-looking costing approach was more appropriate in guiding operators to focus on efficient network investment.
 - (b) Specific competition goals such as service coverage and market share of new entrants should be set as a benchmark to test the effectiveness of the interconnection arrangement. The recently released Audit Commission's Report had also noted that some advanced economies had published information such as the quality of service, consumer outcomes, consumer behaviour, supplier behaviour, market structure as indicators of effective competition.

Members' deliberations

The Framework Agreement

14. Regarding New T & T's earlier remarks about the Framework Agreement in 1998, Mr Howard YOUNG recalled that the HK\$6.7 billion cash compensation to Hong Kong Telecom International Limited (HKTI) was for the early termination of its exclusive telecommunications licence for certain external circuits and telephone services. Regarding the suggestion of separating the retail and wholesale functions of PCCW-HKT, he asked whether further cash compensation would be needed if such a restructuring were to be effected.

15. In reply, DG/Tel confirmed that the HK\$6.7 billion was part of an overall package for the early resolution of HKTI's exclusive telecommunications licence. Pursuant to the Framework Agreement, PCCW-HKT was required to open up its network to its competitors such that at least 50% of the residential exchange lines were available for access by the other FTNS licensees by 1 January 1999.

16. In this regard, Mr Ricky WONG of HKBN pointed out that genuine competition could be achieved if the operators were ready to self-provide their own networks. Hence, he considered that it was more effective to encourage individual operators to self-build their own networks than to separate PCCW-

HKT's wholesale and retail functions.

17. Mr Tony CHEUNG of New T & T added that apart from the early surrender of its exclusive licence and opening up at least 50% of its LALs, PCCW-HKT was also allowed under the Framework Agreement to increase the tariffs for residential exchange lines in phases. Mr Stuart CHIRON of PCCW-HKT maintained that the co-location arrangement provided under the Framework Agreement was not intended to require the unbundling of local loops on an ongoing and indefinite basis.

Consumers' choice, service coverage and quality

18. In view of space constraint in existing old buildings which could not accommodate additional network infrastructure versus new buildings which could house multiple sets of telecommunications networks, Mr Howard YOUNG urged the Government to consider requiring the imposition of differential Type II interconnection charges for old and new buildings. In response, DG/Tel pointed out that given the space limitation for the installation of additional telecommunications systems within old buildings, Type II interconnection was the most viable option to promote competition and provide choices to consumers within a reasonable period of time. Under current arrangements, there already existed differential Type II interconnection charges which were set in accordance with the cost incurred for effecting interconnection. On the other hand, new buildings were usually equipped with their own in-building telecommunications systems which could be opened up for access by all authorized telecommunications and broadcasting operators.

19. Mr Howard YOUNG considered that the percentage of consumers who could have a choice of telecommunications services was a more effective indicator than the extent of service coverage in measuring the state of competition in a liberalized telecommunications market. He enquired about the percentage of consumers who had a choice in broadband services.

20. In reply, DG/Tel advised that apart from physical constraints, the existing policy did not impose any restriction on the number of networks allowed to enter each household in any district of Hong Kong. At present, consumers had a wide range of choices for broadband services offered by PCCW-HKT, Hutchison, NWT, HKBN and i-Cable. Their service roll-out in total could reach nearly all households in Hong Kong. In this regard, Mr Ricky WONG of HKBN pointed out that as the latest wireline-based FTNS entrant, HKBN's territory-wide network roll-out could cover 90% of all public housing estates and buildings under the home ownership scheme. Out of a total of 2.2 million households in Hong Kong, HKBN and i-Cable could reach 1.3 million households. Mr WONG said that he did not see any serious problem in making direct access for the last mile.

21. On service coverage, Mr Stuart CHIRON of PCCW-HKT pointed out that apart from wireline-based carriers, mobile services by wireless carriers with equivalent coverage and quality at competitive prices were good substitutes for fixed line services. He said that PCCW-HKT and i-Cable together had rolled out networks on broadband services covering all areas in Hong Kong. In this connection, he questioned the continued need for Type II interconnection and the requirement on PCCW-HKT to unbundle its local loop which were tantamount to subsidizing other operators at the expense of PCCW-HKT.

22. In reply to Mr CHAN Kwok-keung's enquiry on the number of complaints on number porting made by households or business customers, Mr Ron CAMERON of CC reported that 110 complaints on fixed line telephone and fax services were received, many of which were related to the lack of competitive choices, billing disputes and service quality. Consumers' major concern had also shifted to the lack of choices for broadband services. DG/Tel added that OFTA had received very few complaints about delay in switching to other wireline-based or non-wireline-based operators.

23. In response to Mr CHAN Kwok-keung's enquiry on the failure of the directory inquiries service 1083 to identify the telephone number after providing the address, DG/Tel said that although each licensee was required to provide independent directory inquiries services, all operators shared the same database of PCCW-HKT. Hence, they should be able to identify the telephone numbers upon enquiries. The problem might be an isolated case and OFTA would look into the matter if necessary.

Interconnections hurdles

24. Ms Emily LAU sought clarification on the Type I interconnection hurdles as depicted by HKBN as a new wireline-based FTNS operator. In this regard, Mr Thomas LEUNG of NWT informed members that as NWT and HKBN could not agree on the capacity forecast, NWT was seeking HKBN's agreement to undertake that once HKBN's usage had led to NWT's network congestion, NWT would cease to provide interconnection service to HKBN. Mr Tony CHEUNG of New T & T said that as HKBN had chosen the option of transit interconnection which was more costly for both the supplier and the requesting operators than direct transmission, New T & T was negotiating with HKBN and it was expected that the problem would be settled soon.

25. However, Mr Ricky WONG of HKBN informed members that HKBN had participated in many mediation meetings with other operators called by OFTA recently. This showed that it was difficult for licensees to reach agreements on interconnection arrangements on their own accord. He further doubted that the anticipated client subscription of HKBN would cause

congestion of the provider's multi-billion network of high capacity. To facilitate effective competition, he suggested that the Administration should consider imposing a fixed penalty for failure on the part of an FTNS operator to effect Type I interconnection as requested if there were no technical difficulties for such interconnection.

Service charges

26. On account of the many requirements imposed on PCCW-HKT as the incumbent operator with a market dominance, Mr CHAN Kwok-keung asked whether it was possible for the incumbent operator providing interconnection service to share the profits derived from its ex-subscribers who had now switched to another operator. He also enquired about the latest surcharge imposed by PCCW-HKT on cutover of LALs.

27. In this connection, Mr Tony CHEUNG of New T & T considered that it was rational and necessary to impose more stringent requirements on the incumbent dominant operator in the initial stage of market liberalization to promote entry and to facilitate the early emergence of a truly competitive market. DG/Tel also pointed out that the dominant FTNS operator under its universal service obligation was required to offer fixed line service at a flat rate across all areas in Hong Kong. The cost of meeting this universal service obligation would be shared by other operators providing IDD services.

28. On the question of surcharge as raised by Mr CHAN Kwok-keung, Mr Tony CHEUNG of New T & T considered it unfair for PCCW-HKT to increase its surcharge for the increased productivity of LAL services. As to why New T & T did not make use of the network of i-Cable, Mr CHEUNG clarified that the two networks in question were supported by different technologies. Mr Thomas LEUNG of NWT pointed out that apart from the surcharge of HK\$42 per line per month for Type II interconnection, the requesting operators were actually paying PCCW-HKT HK\$140 or more per line per month in renting other facilities for Type II interconnection. Mr Stuart CHIRON of PCCW-HKT clarified that the additional HK\$38 per line surcharge imposed for the trial implementation of improved productivity was a one-off charge for a year.

Type II interconnections versus self-built networks

29. Ms Agnes MIU of Hutchison reiterated that it was Hutchison's decided policy to provide direct access to customers through its self-built facilities. This had enabled the company to reduce its dependence on Type II interconnection from 44% in 1999 to 12% in 2002 and hence, the common problems associated with interconnection could be avoided. Mr Ricky WONG of HKBN also reported that currently, HKBN was providing broadband services to its 100 000 customers through direct access.

30. Mr Thomas LEUNG of NWT also agreed that providing telecommunications service through self-built networks was the ideal and more economical arrangement in the long run. However, Type II interconnection was still needed to help new market entrants speed up market penetration and bring about competition, particularly in the early years of market liberalization.

31. As traditionally, residential fixed line services were supported by an older technology using copper cable of narrower bandwidth, DG/Tel pointed out that it would be time-consuming, more costly and uneconomical if each new operator had to self-build their own networks to roll-out services to reach their end customers. Type II interconnection would be a more cost-effective arrangement to enable new market entrants to gain access to customers via the existing networks of the incumbent operators by paying an interconnection charge. He also observed that there had been an increased subscription for broadband services, reflecting that many people were switching over from the basic fixed line service the subscription of which had been on a decline.

TA's determinations under section 36A of the Telecommunications Ordinance

32. Mr MA Fung-kwok noted with regret that so far, the new FTNS operators could only take up less than 10% market share seven years after the liberalization of telecommunications market. He expressed doubt as to whether the Administration could achieve its intended objectives of enhancing competition and benefiting consumers. Specifically, he sought the Administration's comments on the deputations' views and whether the effectiveness of TA's directions and/or determinations in resolving disputes on interconnection arrangements should be reviewed. To enhance transparency and facilitate monitoring of progress, the Chairman suggested that more detailed progress on the cases listed in the Annex to the Administration's paper should be provided, such as the dates of applying for determination and the dates on which proceedings were concluded.

33. In response, DG/Tel re-capped the procedures for making determinations on interconnection agreements. Upon receipt of the application for determination, the requesting party and the other party would be invited to make written representation for TA's consideration. Each application for determination would be considered by TA on its own merits, taking into consideration the various factors such as economic theories, costing standards, international practices and the local situation. As to the chronology of action, DG/Tel informed members that OFTA was considering to publish information on the current status of each step of the determination proceedings in respect of each case on its web site to increase transparency. Pending further consultation with the industry, a chronology of action in respect of cases in which determination had been made would also be posted.

34. On some members' concern that certain parties might take advantage of the lengthy process of determination and engage in anti-competitive practices, DG/Tel reassured members that if justified and technically possible, the TA might direct that interconnection be made before a determination was made. The determination process therefore should not affect the flow of communications traffic between the networks or the progress of competition development.

35. Summing up, the Chairman thanked the deputations for submitting their views and said that issues relating to interconnection could receive ongoing attention by the Panel. He also urged OFTA and the industry to work closely in resolving interconnection issues.

V Progress report on publicity and public education campaign on availability of new telecommunications and broadcasting services and operators' in-building access

(LC Paper No. CB(1)1929/01-02(07))

36. At the invitation of the Chairman, the Assistant Director of Telecommunications (AD/Tel) briefed members on the two-stage publicity and public education campaign on availability of new telecommunications and broadcasting services and on in-building access by FTNS operators. The first stage had started from November 2001 and focused on conveying the key message of the availability of a wide range of new telecommunications and broadcasting services. The second stage had started from February 2002 publicizing the message that consumers would gain benefits by allowing telecommunications operators to upgrade the telecommunications facilities of their buildings. Since then, the OFTA had launched a series of media publicity and undertaken various community liaison work. On the achievement of the campaign, OFTA's hotline had received 436 calls from 1 February 2002 to 13 May 2002 about new telecommunications and broadcasting services and matters related to gaining access to such services. From 1 December 2001 to 30 April 2002, staff of OFTA's In-building Systems Section had attended 153 meetings with Incorporated Owners (IOs)/ Building Management Companies (BMOs) to brief them on the multi-operator environment and matters related to operators' access to building.

37. Ms Emily LAU appreciated OFTA's effort to reach out to the concerned parties. She enquired about the feedbacks received during meetings with IOs/BMOs and whether there was a maximum number of such meetings. In reply, AD/Tel recalled that the questions raised by IOs/BMOs were mostly of an operational nature. IOs/BMOs in older districts were concerned about when services would be made available to them and the rights of IOs/BMOs. Having received due advice and information, IOs/BMOs were less resistant to

granting in-building access to the FTNS operators. AD/Tel confirmed that wherever necessary, further meetings with IOs/BMOs would be held.

VI Increase in commitment under the Capital Account in 2002-03 for hosting the International Telecommunication Union TELECOM Asia 2002

(LC Paper No. CB(1)1929/01-02(08))

38. Members noted the proposal to increase the approved commitment from HK\$9 million by HK\$3.5 million to HK\$12.5 million under Head 55 Subhead 700 Item 670 for the hosting of the International Telecommunication Union TELECOM Asia 2002. The Chairman concluded that the Panel had no objection to the proposal.

VII Any other business

39. There being no other business, the meeting was adjourned at 4:20 pm.

Legislative Council Secretariat
5 June 2002