

立法會
Legislative Council

LC Paper No. CB(1)2415/03-04
(These minutes have been seen by
the Administration)

Ref : CB1/PL/CI/1

Panel on Commerce and Industry

Minutes of meeting
held on Monday, 14 June 2004, at 4:30 pm
in Conference Room A of the Legislative Council Building

- Members present** : Hon Kenneth TING Woo-shou, JP (Chairman)
Dr Hon LUI Ming-wah, JP
Hon NG Leung-sing, JP
Hon Mrs Selina CHOW LIANG Shuk-yee, GBS, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon SIN Chung-kai
Hon Henry WU King-cheong, BBS, JP
- Members absent** : Hon HUI Cheung-ching, JP (Deputy Chairman)
Hon CHEUNG Man-kwong
Hon CHAN Kam-lam, JP
Hon MA Fung-kwok, JP
- Public officers attending** : **Item IV**

Miss Mary CHOW
Deputy Secretary for Commerce, Industry and
Technology (Commerce and Industry)

Mr Gordon LEUNG
Principal Assistant Secretary for Commerce, Industry
and Technology (Commerce and Industry)
- Item V**

Miss Denise YUE, JP
Permanent Secretary for Commerce, Industry and
Technology (Commerce and Industry)

Miss Elley MAO
Acting Government Economist
Economic Analysis and Business Facilitation Unit

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

Staff in attendance : Mr TSANG Siu-cheung
Senior Council Secretary (1)7

Ms Sharon CHAN
Legislative Assistant (1)6

Action

- I Confirmation of minutes of meeting and matters arising**
(LC Paper No. CB(1)2131/03-04 -- Minutes of meeting held on 13 April 2004
LC Paper No. CB(1)2132/03-04 -- Minutes of special meeting held on 23 April 2004)

The minutes of the meetings held on 13 and 23 April 2004 were confirmed.

- II Date and items for discussion for next meeting**
(LC Paper No. CB(1)2087/03-04(01) -- List of outstanding items for discussion
LC Paper No. CB(1)2087/03-04(02) -- List of follow-up actions)

2. Members agreed that the next regular meeting would be held on Monday, 12 July 2004 at 4:30 pm to discuss the following items:

- (a) Reports by Heads of Hong Kong Economic and Trade Offices;
- (b) Hong Kong's Post-2004 Textiles Control Arrangements; and
- (c) Border Industrial Zone (proposed for discussion by Mrs Sophie LEUNG).

(*Post-meeting note:* A report on "Hong Kong Shenzhen Economic Cooperation and Border Industrial Zone" published by the APEC Study Centre of the City University of Hong Kong provided by Mrs Sophie LEUNG at the meeting had been issued to members vide LC Paper No. CB(1)2165/03-04(02) on 15 June 2004.)

3. Furthermore, members also agreed to hold a special meeting to discuss issues related to Television Broadcasts Limited's acquisition of a site in the Tseung Kwan O Industrial Estate.

(*Post-meeting note:* A letter dated 10 June 2004 from Hon SIN Chung-kai to the Panel Chairman requesting to discuss the above issues had been issued to members vide LC Paper No. CB(1)2165/03-04(01) on 15 June 2004. With the concurrence of the Chairman, the special meeting would be held on Tuesday, 6 July 2004 at 2:30 pm.)

III Papers issued since last meeting

(LC Paper No. CB(1)2060/03-04 -- Extract of the Director of Audit's Report on the "Costs and Achievements of the Applied Research Fund")

4. Members noted that the above paper had been issued for members' information since the last meeting.

IV Government Electronic Trading Services (GETS) market

(LC Paper No. CB(1)2087/03-04(03))

5. The Deputy Secretary for Commerce, Industry and Technology (Commerce and Industry) (DSCIT) briefed members on the measures taken by the Government to maintain fair competition between the two GETS service providers. Details were set out in the information paper provided by the Administration.

6. The Chairman declared that the Federation of Hong Kong Industries was one of the existing shareholders of Tradelink Electronic Commerce Ltd. (Tradelink).

7. Mr SIN Chung-kai expressed concern about the effectiveness of the measures taken by the Administration to ensure fair competition between the two GETS service providers. He suggested that the Administration should consider incorporating appropriate terms in the relevant service agreements to maintain fair competition between the service providers and provide sanctions against acts of unfair competition.

8. DSCIT advised that the Administration was committed to maintaining fair competition between the service providers. After a complaint about a service provider's anti-competitive act was investigated and substantiated, the Administration would require the service provider to cease such act. Meanwhile, the service provider might make representation to the Government in respect of the complaint. If the Government was not satisfied with the representation and the differences could not be resolved by mutual consultation

within a prescribed timeframe, either the Government or the service provider might institute legal proceedings.

9. Referring to the complaint about anti-competitive practices stated in paragraph 19 of the paper, Mr SIN Chung-kai enquired whether the complaint involved one or several cases. DSCIT confirmed that the complaint involved more than one incident. As the complaint was still under investigation, the Administration was not in a position to reveal the details.

10. Mr SIN Chung-kai was concerned about the reasons for the change in the date for the launch of the GETS for trade declarations (TDEC) and dutiable commodities permits (DCP) by Global e-Trading Services Ltd. (Ge-TS). The Principal Assistant Secretary for Commerce, Industry and Technology (Commerce and Industry) explained that the two types of services were originally scheduled to be launched in the first quarter of 2004. However, as Ge-TS intended to focus its efforts on developing the system for handling TDEC so that TDEC services could start operation first, Ge-TS eventually launched the TDEC services on 1 January 2004 as scheduled. At the same time, the Administration also agreed to postpone the launch of DCP services to July 2004 upon Ge-TS's request.

11. Mr SIN Chung-kai considered that in liberalizing the GETS market, the Administration had to take appropriate and effective measures to regulate the service providers concerned. Although the Administration might not need to adopt the past approach in liberalizing the telecommunications services market, i.e. incorporating provisions into the legislation to safeguard fair competition, Mr SIN still considered that it was necessary to regulate the conduct and services of the service providers through the terms of the service agreements. In this connection, he suggested that the Administration should consider developing some guidelines and codes of practice for compliance by the service providers on the provision of GETS to avoid any anti-competitive practices.

Admin

12. Mr SIN Chung-kai understood that the objective of opening up the GETS market was to bring about better services and more competitive prices through the introduction of competition. With the gradual opening up of the GETS market and the expected increase in the number of service providers in the market in future, Mr SIN Chung-kai stressed that the Administration should establish a regulatory regime as soon as possible. He was particularly concerned that a service provider might be forced to withdraw from the market due to the lack of measures to safeguard fair competition and this would eventually lead to the emergence of a dominant player in the provision of certain services. Moreover, Mr SIN further opined that the current penalty imposed on service providers for anti-competitive conduct was inadequate.

13. DSCIT advised that the objective of opening up the GETS market was to provide more choices to the users in the business and commercial sectors by introducing competition. On the issue of regulation, the service agreements signed between the Administration and the service providers contained provisions to prohibit the latter from engaging in any act which would prevent,

restrict, discourage or restrain competition in relation to the provision of GETS. DSCIT considered the above arrangement adequate in regulating the service providers against any anti-competitive acts. As to whether there was any unfair competition in the market, DSCIT advised that this would depend largely on whether the service providers had engaged in any anti-competitive act, rather than the market share or the scale of operation of individual service providers.

14. The Chairman enquired about the follow-up actions in the event that individual service providers failed to cease their anti-competitive act as advised by the Administration. DSCIT responded that if necessary, the Administration could apply to the court for an injunction order to prohibit the service provider concerned from carrying on with its anti-competitive act. However, she pointed out that the Administration had established close liaison with the service providers. So far, the service providers were cooperative in following the Administration's advice. As regards Mr SIN Chung-kai's suggestion that the Administration should consider setting up a regulatory regime for the service providers as soon as possible, DSCIT pointed out that the mechanism to safeguard fair competition had been detailed in the information paper and was stipulated in the service agreements signed with individual service providers. Regarding the complaint mentioned in paragraph 19 of the paper, DSCIT said that the Administration would handle the complaint prudently and take appropriate follow-up actions. The Chairman urged the Administration to report to the Panel the outcome of the complaint in due course.

Admin

V Improving the business environment (LC Paper No. CB(1)2087/03-04(04))

15. The Acting Government Economist (G Econ(Atg)) briefed members on the Government's measures for improving the business environment, details of which were set out in the information paper provided by the Administration.

Feasibility of introducing a general competition law

16. Given that competition law had already been introduced in many economies and its importance had also been highlighted by international organizations promoting economic development, Mr SIN Chung-kai was concerned about the Administration's position in this regard. He pointed out that all along, the Democratic Party had been supportive of introducing a general competition law in Hong Kong.

17. G Econ(Atg) advised that the Competition Policy Advisory Group (CPAG) led by the Financial Secretary (FS) had already examined and given advice on issues related to competition law. She pointed out that the Hong Kong Special Administrative Region Government (HKSARG) had all along been upholding the free market principle and was committed to creating a business-friendly environment which could enhance Hong Kong's competitiveness in the global market. As such, the Administration would continue to take effective measures

to improve the business environment in Hong Kong with a view to promoting its long-term economic development.

18. The Permanent Secretary for Commerce, Industry and Technology (Commerce and Industry) (PSCIT) reiterated that policy-wise, the HKSARG considered it unnecessary to introduce a general competition law in Hong Kong. Under the existing policy, the Administration adopted a sector-specific approach where pro-competition laws were drawn up having regard to the needs of individual sectors. For example, under the Broadcasting Ordinance, there were provisions prohibiting licensees from engaging in anti-competitive practices. Moreover, in liberalizing the telecommunications services market, the Administration had amended the Telecommunications Ordinance by introducing provisions to safeguard fair competition. PSCIT stressed that the HKSARG considered it unnecessary to introduce a comprehensive and general competition law in Hong Kong at this stage. Notwithstanding, she understood that the Economic Development and Labour Bureau (EDLB) had maintained close contact with major local trade associations in drawing up guidelines to promote fair competition in the relevant trades.

19. Although the Administration had amended the Broadcasting Ordinance and the Telecommunications Ordinance over the past few years to incorporate provisions to safeguard fair competition, Mr SIN Chung-kai was concerned why the Administration had not introduced similar legislation in other sectors to ensure fair competition. PSCIT explained that this was mainly because for the time being, the Administration considered it unnecessary to introduce pro-competition legislation in sectors other than broadcasting and telecommunications services.

20. Mr SIN Chung-kai pointed out that under the prevailing market conditions, unfair competition in certain sectors might have been caused by other sectors. For example, residents of some private residential estates could not use the service provided by other telecommunications companies because the telecommunications networks in their estates had been built by certain property developers. In response, PSCIT said that how the issue should be followed up was currently being discussed and examined by CPAG led by FS.

21. Furthermore, Mr SIN Chung-kai was concerned that the abundant supply of unauthorized decoders in the market for pirated viewing of pay television programmes had seriously affected the business of the service provider. He attributed the above problem to the failure of the Administration to open up the pay television services market to introduce competition and provide consumers with more choices.

22. PSCIT advised that although promoting fair competition was outside the purview of the Commerce, Industry and Technology Bureau, she would convey Mr SIN's view to EDLB. Mr SIN Chung-kai reiterated that the Administration should reconsider and examine the feasibility of introducing a general competition law in Hong Kong.

Implementing the "Big Market, Small Government" principle

23. Referring to paragraph 20 of LC Paper No. CB(1)1923/01-02(05), which stated that the Government would consider the need to take appropriate measures to facilitate projects beneficial to the economy as a whole when the private sector was not ready to invest in them, Mr NG Leung-sing agreed with this principle and considered that improving the business environment was not solely a matter for the market. It would require the concerted efforts of the private sector and the Government. Mr NG pointed out that in improving the business environment, the HKSARG should not take over the role of the private sector. It should act as a proactive market enabler and provide investment opportunities for the private sector under the "Big Market, Small Government" principle in order to achieve the objective of promoting Hong Kong's economic development. He suggested that the Administration should come to grasp with the actual needs of various sectors in order to identify the sectors for which effective measures had to be taken to improve the business environment. Mr NG Leung-sing also said that he would move a motion at a forthcoming meeting of the Legislative Council to urge the Administration to review the implementation of the "Big Market, Small Government" principle and examine the effectiveness of the measures for improving the business environment and creating investment opportunities for the business sector.

24. In response, PSCIT said that all bureaux of the HKSARG had all along implemented the "Big Market, Small Government" principle in an active manner. Reviews were conducted from time to time to see whether the Government could reduce its involvement while enhancing the role of the business and commercial sectors in improving the business environment. For example, the HKSARG's decision to cease the construction and sale of Home Ownership Scheme flats and to withdraw from the market gradually had been made in response to the change in public demand for housing.

25. Mr NG Leung-sing did not subscribe to the above example. He pointed out that it was necessary for the Administration to formulate specific measures to implement the "Big Market, Small Government" principle. The Administration should also inform the business and commercial sectors of the details and implementation time-table of these measures. PSCIT clarified that if the Administration considered it feasible to reduce its involvement in certain projects which should best be taken over by the private sector, the bureau concerned would make appropriate arrangements to implement and realize the "Big Market, Small Government" principle. Citing the listing of the Mass Transit Railway Corporation Limited and the joint venture established by the HKSARG, the Airport Authority and a private-sector consortium to build an exhibition centre in Chek Lap Kok as examples, PSCIT advised that the Administration had implemented measures to give effect to the "Big Market, Small Government" principle in order to enhance private sector participation in improving the business environment and creating favourable conditions for investment.

Competition between Radio Television Hong Kong (RTHK) and private broadcasters

26. In view of the allocation of some \$460 million to RTHK to meet its operating expenses for 2004-2005, Mr NG Leung-sing considered that the arrangement would inevitably cast doubt on how other private broadcasters could compete with RTHK having regard to the advantaged position of RTHK and the need for private broadcasters to secure advertising income and commercial sponsorship to fund their broadcasting services. He suggested that the Administration should examine the feasibility of liberalizing the broadcasting industry for private sector participation and investment so that fair competition could be achieved in the industry.

Admin

27. Responding to Mr NG Leung-sing's concern about the competition between RTHK and other private broadcasters, PSCIT advised that although she was not the Permanent Secretary responsible for matters related to RTHK, she would convey Mr NG's view to the Secretary for Commerce, Industry and Technology. Having participated in the work of CPAG led by FS, PSCIT recalled that over the past few years, no complaints had been received from private broadcasters alleging that RTHK's services amounted to unfair competition.

Consultation on improving the business environment

28. Mrs Sophie LEUNG welcomed the Administration's adoption of "creating an enabling environment" as the objective of Hong Kong's economic development. While suggesting that the Administration should establish a mechanism to examine in detail the proposals to improve the business environment, she also called upon the business and commercial sectors to put forward their views for achieving the objective of improving the business environment through joint efforts from the public and private sectors. Mrs Sophie LEUNG also encouraged the Administration to incorporate the views of business and industrial leaders as far as possible in respect of ways to improve the business environment.

29. G Econ(Atg) pointed out that the Subgroup on Business Facilitation (Subgroup) under the Economic and Employment Council chaired by FS would collect views systematically from representatives and leaders of the business and commercial sectors on the way forward for the development of the relevant sectors.

30. Given the rapid development of the industries, Mrs Sophie LEUNG suggested that apart from the Subgroup, the Administration should also consider opening up other channels to collect views from persons with profound insight, such as economists. G Econ(Atg) noted Mrs LEUNG's suggestion and stressed that the Administration would take an interactive approach by working with various sectors to identify options for improving the business environment. As far as promoting Hong Kong's economic development was concerned, she supplemented that in addition to receiving views from various sectors, the

Administration would provide industries with the necessary direction to facilitate their development having regard to the international situation.

31. The Chairman commended the Administration for its initiatives to improve the business environment. He urged the Administration to canvass and consider the views of different sectors in order to achieve the objectives of creating an enabling environment and promoting Hong Kong's economic development.

VI Any other business

32. There being no other business, the meeting ended at 6:00 pm.

Council Business Division 1
Legislative Council Secretariat
20 July 2004