

**立法會**  
**Legislative Council**

LC Paper No. CB(1)1197/04-05  
(These minutes have been seen  
by the Administration)

Ref : CB1/PL/ITB/1

**Panel on Information Technology and Broadcasting**

**Minutes of meeting**  
**held on Monday, 14 March 2005, at 2:30 pm**  
**in Conference Room A of the Legislative Council Building**

**Members present** : Hon SIN Chung-kai, JP (Chairman)  
Hon Albert Jinghan CHENG (Deputy Chairman)  
Hon Jasper TSANG Yok-sing, GBS, JP  
Hon Howard YOUNG, SBS, JP  
Hon Timothy FOK Tsun-ting, GBS, JP

**Member attending** : Hon CHIM Pui-chung

**Member absent** : Dr Hon LUI Ming-wah, JP

**Public officers attending** : Agenda Item IV  
Miss Angela LUK  
Assistant Commissioner for Television and  
Entertainment Licensing (Entertainment)  
  
Mr John MAK  
Senior Engineer (Special Effects)  
Television and Entertainment Licensing Authority  
  
Agenda Item V  
  
Mr Howard DICKSON  
Government Chief Information Officer

Mrs Betty FUNG, JP  
Deputy Government Chief Information Officer  
(Planning and Strategy)

Mr Stephen MAK, JP  
Deputy Government Chief Information Officer  
(Operation)

Ms Joyce TAM  
Assistant Government Chief Information Officer  
(E-government Policy and Development)

Agenda Item VI

Mrs Marion LAI, JP  
Deputy Secretary for Commerce, Industry &  
Technology (Communications and Technology)

Mr K S WONG  
Assistant Director of Telecommunications (Support)

Agenda Item VII

Mrs Marion LAI, JP  
Deputy Secretary for Commerce, Industry &  
Technology (Communications and Technology)

Mr Y K HA  
Assistant Director of Telecommunications (Regulatory)

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

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

Ms Sharon CHAN  
Legislative Assistant (1)6

Action

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**I Confirmation of minutes and matters arising**

- LC Paper No. CB(1)985/04-05 -- Minutes of special meeting held on 18 January 2005
- LC Paper No. CB(1)1053/04-05 -- Minutes of special meeting held on 2 February 2005
- LC Paper No. CB(1)1028/04-05 -- Minutes of meeting held on 4 February 2005

The minutes of the meetings held on 18 January, 2 and 4 February 2005 were confirmed.

**II Paper issued since last meeting**

- LC Paper No. CB(1)894/04-05(01) -- "Guide to Filming in Hong Kong 2005/06" provided by the Film Services Office, Television and Entertainment Licensing Authority

2. Members noted the paper issued since last meeting.

**III Date and items for discussion for next meeting**

- LC Paper No. CB(1)1052/04-05(01) -- List of outstanding items for discussion
- LC Paper No. CB(1)1052/04-05(02) -- List of follow-up actions

3. Members noted that the Administration had proposed to brief the Panel on the following two items at the April meeting which had been re-scheduled to be held on 8 April 2005 at 3:30 pm or after the House Committee meeting, whichever was later:

- (a) Implementation of Computer Information System Integration Qualification Certification under CEPA II.
- (b) IT Easy Link Services

4. Members also agreed to discuss the item on "Broadcasting services of the Radio Television Hong Kong". They also agreed to the proposal of the Deputy Chairman that issues related to the findings of a listenership survey commissioned by RTHK would also be considered in the context of the item.

#### **IV Revision of Fees of Entertainment Special Effects Licence**

LC Paper No. CB(1)1052/04-05(03) -- Information paper provided by Administration

5. At the invitation of the Chairman, the Assistant Commissioner for Television and Entertainment Licensing (Entertainment) (AC for T&EL) briefed members on the Administration's proposal to reduce the fees prescribed in the Entertainment Special Effects (Fees) Regulation, which was a piece of subsidiary legislation under the Entertainment Special Effects Ordinance (ESEO) (Cap 560). In line with the "user pays" principle, the Administration proposed to reduce a number of fees by 7.1% to 10% following a costing exercise recently conducted by the Television and Entertainment Licensing Authority. Members noted that the Administration planned to table the Amendment Regulation setting out the proposed fees at the Council meeting on 20 April 2005 for negative vetting, with a view to effecting the reduction on 10 June 2005.

6. In reply to Mr Howard YOUNG, AC for T&EL confirmed that the pyrotechnic special effects of the light and sound show entitled "A Symphony of Lights" was regulated under ESEO.

7. In conclusion, the Chairman said that the Panel did not have any objection to the Administration's proposal.

#### **V E-government – The Next Wave**

LC Paper No. CB(1)1052/04-05(04) -- Information paper provided by Administration

LC Paper No. CB(1)1052/04-05(05) -- Question raised by Hon Emily LAU Wai-hing on "object positioning technologies" at the Council meeting on 17 November 2004 and the Administration's reply

LC Paper No. CB(1)1105/04-05(01) -- Power-point presentation material (*tabled and subsequently issued to members on 15 March 2005*) on "E-government – The Next Wave"

8. With the aid of power-point presentation, the Assistant Government Chief Information Officer (E-government Policy and Development) (AGCIO(EP&D)) briefed members on the key elements of the next wave of e-government development and the progress of the on-going initiatives as set out in the Administration's paper (CB(1)1052/04-05(04)). In gist, she introduced a number

of key priorities which included the new strategy for e-government service delivery, customer relationship management, channel management strategy, electronic procurement and measuring the benefits of e-government initiatives. She also outlined the progress of on-going initiatives in the first phase of e-government, including the subject of online booking of facilities in community halls/centres, and the latest development and implementation of Global Positioning Systems in Hong Kong.

#### Property Stamping System

9. Noting that the Property Stamping System (PSS) had been introduced through the Electronic Service Delivery (ESD) portal in August 2004, Mr Howard YOUNG enquired about the scope of services under PSS and whether it was secure to process online payment of stamp duties under the system.

10. In response, AGCIO(EP&D) highlighted that PSS was a joined-up initiative which enabled online processing of property stamping application and issuance of property stamp certificates to the applicants by the Inland Revenue Department for all property transactions, namely agreement for sale, assignment and tenancy agreement. On payment of stamp duty, AGCIO(EP&D) pointed out that PSS provided the options of online or offline payment. For offline payment, the applicant might print the payment notice after submitting the stamping application online and pay the duty at the Stamp Office or via existing tax payment channels.

#### New strategy for e-government services delivery

11. The Chairman was concerned about the impact of the new strategy which would adopt a service clustering approach for the future delivery of e-government services on the existing ESD services. Noting that the five-year contract with the ESD service provider (i.e. ESD Services Limited (ESDSL)) would end in January 2006, the Chairman was worried that in case the service clusters were not ready when the current contract with ESDSL expired, there would be a gap in the delivery of e-government services.

12. In this regard, the Deputy Government Chief Information Officer (Planning and Strategy) (DGCIO(P&S)) advised that the ESD was a general-purpose portal providing a wide range of e-services for a heterogeneous group of customers whereas the clustering approach targeted at the specific needs of individual customer segments. On the transitional arrangements before the new service clusters were rolled out, the first batch of which was expected to be in place in early/mid 2007, DGCIO(P&S) informed members that under the existing contract with the ESD service provider, the contract might be extended on the same terms and conditions for two more years at the Government's option. The Government would consider whether to exercise this option, taking into account the need to maintain service continuity during the transition period. Moreover, in the unlikely event that ESDSL was unable to provide services after

the expiry of the contract, it was obliged under existing contract terms to ensure a smooth transition in the delivery of e-government services to the Government and/or the future operator to take up the services. The Administration would be required to notify the ESD service operator of its intention to extend the contract six months before the current contract expired.

13. The Chairman further asked about the extent of private sector participation in the delivery of e-government services through the service clusters. He was also concerned whether the incumbent ESD service operator could also tender for the development of the service clusters.

14. In response, DGCIO(P&S) highlighted that the new e-government strategy sought to, inter alia, allow more private sector participation so that the Government could leverage on their expertise and experience. As such, the Administration would, where appropriate, adopt a public-private sector partnership (PPP) approach in developing the service clusters. To test the market response, the Administration would invite Expression of Interest (EOI) in the first half of 2005 in the development, implementation, management and operation of the priority service clusters. DGCIO(P&S) further advised that while the future mode of private sector participation in developing the service clusters was yet to be worked out, the Administration would not rule out the possibility that an operator might take up the development of a single service cluster or a combination of clusters. Since the business case of the service clusters varied, such as the cluster on sport, leisure and lifestyle which might have a stronger appeal than others which provided routine e-government services, DGCIO(P&S) said that the Administration had an open mind and was prepared to consider different models of PPP for developing and operating different service clusters.

15. To make the best possible use of the PPP model, DGCIO(P&S) said that the Administration would first invite EOI, which was not legally binding, to ascertain market interest in developing the priority service clusters identified by the Government. Based on the response to the EOI invitation, the Office of GCIO would work out with the bureaux/departments concerned the business and implementation plans for individual clusters before end 2005 and then proceed to issue invitation for tender. She confirmed that the incumbent ESD service operator could submit tenders along with other interested parties and be considered on an equal footing. The Deputy Government Chief Information Officer (Operation) supplemented that the adoption of an open and interoperable standard for the Government's technology infrastructure, which supported easy interfacing within the Government and with the private sector, and the provision of common infrastructural services were conducive to facilitating private sector operators, including the incumbent ESD service operator, to develop the service clusters. He stressed that since many e-services under the new clusters were outside the existing scope of services available in the ESD portal, they would present business opportunities to both the incumbent ESD service operator and other interested parties.

The way forward

Admin

16. On the timeframe for implementing the new strategy for e-government services delivery, DGCIO(P&S) advised that the Administration planned to issue invitations for EOI by May 2005 and draw up the business and implementation plans for the individual clusters by September/October 2005. The Chairman suggested that the Administration should brief the Panel on the progress in implementing the new strategy by end 2005/early 2006. Members agreed.

*(Post-meeting note : The item "New strategy for e-government services delivery" has been included in the Panel's "List of outstanding items for discussion" vide LC Paper No. CB(1)1196/04-05(01)).*

**VI Report on result of consultation on proposals to contain the problem of unsolicited electronic messages**

LC Paper No. CB(1)1052/04-05(06) -- Information paper provided by Administration

LC Paper No. CB(1)1005/04-05(01) -- Press release on "Government to Take "STEPS" against Spamming" on 24 February 2005

LC Paper No. CB(1)2316/03-04 -- Consultation paper on "Proposals to contain the problem of unsolicited electronic messages" on 25 June 2004  
[http://www.ofa.gov.hk/frameset/home\\_index\\_eng.html](http://www.ofa.gov.hk/frameset/home_index_eng.html)

17. At the invitation of the Chairman, the Assistant Director of Telecommunications (Support) (AD/Tel(S)) and the Deputy Secretary for Commerce, Industry and Technology (Communications and Technology) (DSCIT(CT)) briefed members on the results of the consultation on proposals to contain the problem of unsolicited electronic messages (UEMs) in Hong Kong and the planned launching of a campaign entitled "STEPS" to fight UEMs. They highlighted the courses of action under "STEPS" which included strengthening existing regulatory measures, promotion of the latest technical solutions, stepping up users' education, local and global partnership and statutory measures.

Statutory measures

18. Noting that there was an increasing number of UEMs among incoming e-mails, Mr Howard YOUNG welcomed the Administration's proposal to enact

anti-spam legislation. He noticed that there was a mechanism allowing the recipients of some e-mails originated from overseas to remove themselves from the senders' electronic mailing lists, and enquired whether it was a requirement under overseas legislation to provide an "opt-out" option to e-mail recipients.

19. In response, DSCIT(CT) informed members that some jurisdictions, such as the United States and United Kingdom, had introduced anti-spam legislation. Most of the economies which had legislated against unsolicited commercial electronic messages had adopted either an "opt-out" or "opt-in" (i.e. UEMs could be sent only with the recipient's prior consent) scheme.

20. Mr Jasper TSANG enquired about the effectiveness of overseas anti-spam legislation in controlling the problem of UEMs. In view of the extra-territorial nature of the problem of spam, Mr TSANG was concerned whether the enactment of local anti-spam legislation could help strengthen global partnership and curb spam mails originated from overseas.

21. On overseas experience, DSCIT(CT) pointed out that anti-spam legislation had only been introduced recently in other jurisdictions. Its effectiveness was therefore yet to be tested. The Administration would monitor closely issues related to the regulation of spam activities, including the outcome of overseas court cases on spamming. In formulating its legislation proposal, the Administration would give due regard to overseas regulatory regimes. Noting that some 95% of spam originated from overseas, DSCIT(CT) advised that the enactment of anti-spam legislation in Hong Kong would prevent Hong Kong from becoming a safe haven sheltering illicit spammers. It would strengthen co-operation with overseas jurisdictions with similar legislation in the investigation and enforcement work against spammers.

22. The Deputy Chairman was worried that enacting anti-spam legislation might hamper the freedom of expression and impede the free flow of information. Noting the Deputy Chairman's concern, DSCIT(CT) assured members that it was not the Government's intention to undermine the freedom of expression and the Administration would therefore take heed of this concern when formulating the anti-spam legislation. For example, the Administration would consider carefully whether the proposed legislation should cover commercial UEMs only or all UEMs irrespective of their nature, and would take into account the views received during the public consultation.

#### Junk fax

23. Referring to the numerous complaints he had received about junk fax, the Chairman considered that junk fax might pose a more serious problem because unlike recipients of spam mails who could simply delete the mails or filter them by spam removal software, there were currently no effective measures to stop incoming junk fax which caused much nuisance especially during late hours. He urged the Administration to consider imposing criminal sanction against

senders of junk fax.

24. To address the problem of junk fax, DSCIT(CT) informed members that the Government would strengthen industry co-operation in this regard. She highlighted the existing practice that if three substantiated complaints against unsolicited fax advertisements sent by a fax line were received, the fixed telecommunications network service (FTNS) operator could disconnect all the fax lines registered at the concerned address by the sender. To further contain the problem of junk fax, the Administration would work with the FTNS operators to penalize advertisers who continued to spam recipients on the "not-to-call" list for fax by reducing the timeframe required to cut off their access to telecommunications services, which was their means to send out fax advertisements.

25. Mr Howard YOUNG shared the Chairman's view. He understood that parties receiving junk fax through their business faxlines might instruct the FTNS operators to disconnect the transmission if the senders' numbers were not published. Noting that some senders of junk fax used to send fax messages to residential telephone numbers and this had caused much nuisance to the receiving parties, Mr YOUNG asked if it would be technically feasible for the FTNS operators to ensure that the residential telephone lines concerned would not be accessed by unsolicited fax transmissions.

26. In response, AD/Tel(S) advised that at present, those customers who did not want to receive fax messages could register their telephone numbers in the "not-to-call" list for fax. However, according to the returns from the FTNS operators, about half of the 36 000 complaints were lodged by those on the "not-to-call" list. While it was feasible for the FTNS operators to disconnect customers from certain types of services upon their request, AD/Tel(S) remarked that to tackle the problem of junk fax, one of the options which might be considered was to include unsolicited fax and even automated telephone calls in the proposed definition of "electronic messages" in the anti-spam legislation.

#### The way forward

27. In reply to the Chairman's enquiry about the legislative timetable, DSCIT(CT) advised that the Administration's aim was to work out a legislative framework which was largely acceptable to different stakeholders. She informed members that given the controversial nature of the anti-spam legislation, the Administration had already started to engage representative stakeholders in in-depth discussion of the legislative proposal. The Administration planned to introduce the Bill into the Council in 2006. DSCIT(CT) assured members that the Administration would brief the Panel on the draft legislative framework before proceeding to draft the bill.

Admin

**VII Consultation exercise on the licensing framework for the deployment of broadband wireless access**

LC Paper No. CB(1)1052/04-05(07) -- Information paper provided by Administration

LC Paper No. CB(1)629/04-05(01) -- Executive summary of the consultation on Licensing framework for deployment of broadband wireless access on 20 December 2004

LC Paper No. CB(1)629/04-05(02) -- Press release on Licensing framework for deployment of broadband wireless access on 20 December 2004

LC Paper No. CB(1)1105/04-05(02) -- Power-point presentation material (*tabled and subsequently issued to members on 15 March 2005*) on "Licensing Framework for Deployment of Broadband Wireless Access"

28. With the aid of power-point presentation, the Assistant Director of Telecommunications (Regulatory) (AD/Tel(R)) briefed members on the consultation exercise concerning the licensing framework for the deployment of broadband wireless access (BWA) technologies. In gist, he introduced the background of the development of BWA technologies in Hong Kong and other developed countries, and the issues covered in the consultation paper, including potential applications of BWA, the standards and spectrum for BWA in Hong Kong, frequency blocks available, licensing issues, spectrum assignment, the payment approach of levying spectrum utilization fee (SUF) as determined by spectrum auctioning, spectrum usage period, surrendering spectrum and change of spectrum usage.

Usage of BWA spectrum and licensing issues

29. Noting that the 3.5 GHz band was considered to be the most suitable licensed band for BWA deployment in Hong Kong, the Chairman was concerned whether this frequency band could be used for Third Generation (3G) mobile services. Considering that there was no apparent difference between local mobile service and the nomadic mode of service (i.e. from any location with an Internet connection) due to the small geographical size of Hong Kong, the Chairman was concerned that if the auctioning approach is adopted, the frequency band assigned for BWA might be deployed to provide 3G mobile services at a SUF which was likely to be lower than that currently payable by 3G mobile carrier licensees. He enquired whether the use of BWA spectrum would be limited to fixed services.

30. In response, AD/Tel(R) confirmed that the 3.5GHz band for BWA might be used to support full 3G mobile applications. In fact, the Telecommunications Authority (TA) was aware of the technology development resulting in a growing trend of fixed-mobile convergence and there were views that BWA was a candidate technology realizing such trend. Notwithstanding, the preliminary view of TA was that BWA in Hong Kong should initially serve as a wireless extension of the conventional wire-line based fixed network service, rather than to be deployed for full mobile service. To differentiate BWA services from full mobile service, the TA proposed that the service offered by a fixed carrier licensee through BWA would only be allowed to have "limited mobility" which meant that no cell handoff capability would be allowed. However, BWA spectrum could be used to provide both voice and data transmissions. AD/Tel(R) further advised that any plan to change the use of the spectrum to support full mobile applications would require the prior approval of TA, the subsequent successful application for a mobile carrier licence and payment of the adjusted SUF commensurate with the mobile usage. Nevertheless, AD/Tel(R) stressed that the aforesaid arrangements were only TA's preliminary proposal which would be finalized subject to further review on the feasibility of the arrangements and the views received in response to the consultation paper.

#### Spectrum assignment

31. The Chairman was concerned about the pace of development of BWA in Hong Kong given that Singapore had already announced its plan to conduct a BWA spectrum auction in April 2005. In response, AD/Tel(R) pointed out that Hong Kong would not lag behind since according to an industry forum held last month, the relevant equipment, such as notebook computer, based on the more popular standard used in the delivery of BWA services would not be available in the market until 2006.

32. The Chairman noted the Administration's preliminary view that the BWA spectrum would be assigned by auction. As TA might ultimately allocate roughly three 14 MHz x 2 paired frequency blocks and four 20MHz unpaired frequency blocks for BWA, the Chairman enquired whether separate auction would be held for each set of frequency blocks and whether legislation would need to be enacted for the auctioning of BWA spectrum. Recalling that a consultancy study had been commissioned to draw up the auction arrangements for the 3G spectrum, the Chairman enquired whether another consultancy study would be undertaken this time.

33. In response, AD/Tel(R) advised that the auctioning of BWA spectrum would not involve amendments to the principal ordinance since the power of the Administration to designate frequency bands subject to SUF payment and the method of determining SUF were provided for under section 32I of the Telecommunications Ordinance (TO) (Cap 106). However, the method for determining SUF for BWA spectrum should be prescribed by regulation made

under section 32I of TO, which was subsidiary legislation subject to negative vetting. The Administration planned to introduce the subsidiary legislation into the Council in the next legislative session with a view to assigning the BWA spectrum in the first half of 2006.

Admin

34. DSCIT(CT) supplemented that the TA would consider all the submissions received in the consultation exercise and take into account the views expressed before finalizing his decisions on the licensing of BWA services in Hong Kong. Once a decision was made, the Administration would take all necessary steps to put in place the licensing framework, including the introduction of subsidiary legislation. She said that it was too early at this stage to decide whether it was necessary to undertake another consultancy study.

35. Summing up, the Chairman said that the Panel was in support of the Administration's proposed initiative and noted that after finalizing its decision on the licensing approach, the Administration would introduce the necessary subsidiary legislation into the Council in the latter half of 2005.

### **VIII Any other business**

36. There being no other business, the meeting ended at 4:05pm.

Council Business Division 1  
Legislative Council Secretariat  
6 April 2005