

立法會
Legislative Council

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by the Administration)

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Subcommittee on Broadcasting (Revision of Licence Fees) Regulation 2006

**Minutes of the second meeting held on
Thursday, 8 June 2006, at 2:30 pm
in the Chamber of the Legislative Council Building**

Members present : Hon SIN Chung-kai, JP (Chairman)
Hon Fred LI Wah-ming, JP
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Howard YOUNG, SBS, JP
Hon Emily LAU Wai-hing, JP
Hon Ronny TONG Ka-wah, SC

Public officers attending : Mrs Marion LAI, JP
Deputy Secretary for Commerce, Industry and Technology
(Communications and Technology)

Mr Eddie CHEUNG
Principal Assistant Secretary for Commerce, Industry and
Technology (Communications and Technology)

Ms Lorna WONG
Commissioner for Television and Entertainment Licensing

Mr PO Pui-leong
Assistant Commissioner for Television and Entertainment
Licensing (Broadcasting)

Attendance by invitation : Mr Desmond CHAN
General Counsel
Hong Kong Cable Television Limited

Clerk in attendance : Ms Connie SZETO
Chief Council Secretary (1)6

Staff in attendance : Ms Bernice WONG
Assistant Legal Adviser 1

Ms Debbie YAU
Senior Council Secretary (1)1

Ms Guy YIP
Council Secretary (1)1

I. Meeting with television programme service licensees and the Administration

(LC Paper No. CB(1)1689/05-06(01) — Submission from the Hong Kong Cable Television Limited

LC Paper No. CB(1)1689/05-06(04) — Information paper provided by the Administration

LC Paper No. CB(1)1689/05-06(02) — Submission from the Movielink (Hong Kong) Limited

LC Paper No. CB(1)1689/05-06(03) — Submission from the PCCW Media Limited)

The Subcommittee deliberated (Index of proceedings attached at **Appendix**).

2. The Subcommittee completed scrutiny of the Broadcasting (Revision of Licence Fees) Regulation 2006 and expressed support for the fees revision therein which was in line with the cost recovery principle and the current fee adjustment mechanism. Members agreed that the Chairman would report the Subcommittee's deliberations to the House Committee at the latter's meeting on 16 June 2006.

3. The Chairman urged the Administration to take note of the views expressed by members and deputations, including streamlining the existing licensing regime for Type B other licensable television (TV) programme service licence and examining the feasibility to reduce licence fees of TV programme service after the establishment of the new Office of the Communications Authority if the proposal of merging the Broadcasting Authority and Telecommunications Authority was to be implemented.

II. Any other business

4. There being no other business, the meeting ended at 3:25 pm.

Council Business Division 1
Legislative Council Secretariat
28 June 2006

**Proceedings of the second meeting of the
Subcommittee on Broadcasting (Revision of Licence Fees) Regulation 2006
on Thursday, 8 June 2006, at 2:30 pm
in the Chamber of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000120-000320	Chairman	Opening remarks	
000321-000648	HK Cable TV Ltd (Cable TV)	<u>Presentation of views</u> (LC Paper No. CB(1)1689/05-06(01))	
000649-001214	Administration	<p>The Administration's response to views expressed by deputation, as follows –</p> <p>(a) The current licence fee charging mechanism was based on the principle of cost recovery which had generally been agreed by the licensees when consulted in 1998;</p> <p>(b) While it was possible that the licence fee charging mechanism might undergo review in future in view of the proposed merger of the Broadcasting Authority (BA) and the Telecommunications Authority (TA) to form the Communications Authority (CA) and the amalgamation of the Broadcasting Division of the Television and Entertainment Licensing Authority (TELA) and the Office of the Telecommunications Authority</p>	

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		<p>(OFTA) to form the new Office of the Communications Authority (OFCA) (the merger proposal), the existing fee charging mechanism should be followed in determining the licence fees unless and until the mechanism was modified;</p> <p>(c) TELA had made its best effort to enhance efficiency and reduce administrative costs in the past few years. For instance, the estimated staffing costs had been reduced from about \$24 million in 2001-02 to about \$18 million in 2005-06, and departmental expenses and other costs had also decreased from about \$11 million to about \$5.7 million during the same period, representing reductions of 25% and 48% in the two items respectively; and</p> <p>(d) Despite TELA's cost saving measures, rising complexity of regulatory issues in the television market had led to increase in administrative costs and hence offset savings, thus resulting in increase in the fees for some categories of licence</p>	
001215-001826	Ms Emily LAU Administration	<p>(a) Member's enquiries, as follows:</p> <p>(i) Whether operational costs of the new OFCA, e.g. expenditure on technical advice, could be reduced thus leading to reduction</p>	

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		<p>of licence fees if the merger proposal was to be implemented; and</p> <p>(ii) Whether costs incurred for administering the new regulatory structure for the broadcasting and telecommunications sectors under the merger proposal could be reduced if the CA adopted a more relaxed regulatory approach</p> <p>(b) The Administration's advice, as follows -</p> <p>(i) While there would be potential for the new OFCA to achieve operational synergy and efficiency, given that OFCA would need resources to employ staff with the necessary expertise to tackle complicated regulatory issues in particular in the first few years of inception, it was premature to predict at this stage any reduction in licence fees; and</p> <p>(ii) While OFTA provided technical advice to TELA on issues relating to transmission arrangements, there was little overlap in the current</p>	

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		work of TELA and OFTA	
001827-002200	Chairman Administration	<p>(a) Member's enquiries about other licensable TV programme service licence</p> <p>(b) The Administration's advice, as follows -</p> <p>(i) Type A other licensable TV programme service licence referred to TV service provided for an audience of not more than 5 000 specified premises. No such licence had been granted so far. During the recent costing exercise by TELA, it was estimated that the notional cost of administering such a licence could be reduced and therefore the fixed fee of the licence would be revised downward by 24%;</p> <p>(ii) Type B other licensable TV programme service licence (Type B Licence) referred to TV service provided in hotel rooms which was subject to regulation under the Broadcasting Ordinance (BO) (Cap. 562). As the validity period of most of the existing Type B Licence ranged from one to three years, the fixed fee for the licence would be raised by 11% to</p>	

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		<p>reflect the increase in administration work related to more frequent licence renewal; and</p> <p>(iii) The BA had recently decided to extend the validity period of Type B Licence to 12 years in order to reduce the administrative costs</p>	
002201-002513	Ms Emily LAU Administration	<p>(a) Member's follow-up on the concern expressed by Movielink (Hong Kong) Limited (a Type B Licensee) about decline in annual hotel pay-movies access rate as majority of hotel guests from the Mainland belonged to the low-spending group who seldom patronized the pay-movies service</p> <p>(b) The Administration's advice that revision in fee for Type B Licence was in line with the cost recovery principle</p>	
002514-002911	Chairman Mr Howard YONG Administration	<p>(a) Members' views, as follows -</p> <p>(i) Mainland hotel guests preferred to watch Putonghua movies which were not readily available in the hotel pay movies service; and</p> <p>(ii) TV services provided for hotel rooms were non-pervasive and</p>	

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		<p>targeted at residents in hotels only. Hence, not much regulatory work would arise</p> <p>(b) On (ii) above, the Administration's advice, as follows –</p> <p>(i) The BA adopted a complaint-driven approach. TELA required licensees to provide programming information and returns on regular basis in case there were complaints, and</p> <p>(ii) The variable fee for Type B Licence was only \$5,400 per hotel which remained unchanged in the current fee revision exercise</p>	
002912-003639	Mr Ronny TONG Administration Chairman	<p>(a) Member's view/suggestion, as follows -</p> <p>(i) It was important to ensure fair market competition and provision of a level-playing field for all market participants in the broadcasting industry. Increase in licence fees might discourage potential operators to access the market; and</p> <p>(ii) Consideration should be</p>	

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		<p>given to apportioning costs for administering different licences taking into account the market share of individual licensees in a licence category, for instance, the viewer-ship of the licensee in the domestic free TV licence category</p> <p>(b) The Administration's response, as follows –</p> <p>(i) While the Administration welcomed suggestions for improving the fee charging mechanism, the existing mechanism was based on the cost recovery principle which was in line with Government's established policy;</p> <p>(ii) Different fee charging mechanisms had their pros and cons. For the suggestion in (a)(ii) above, there would be difficulties in deciding how and when individual licensees' market share should be taken in calculating licence fees; and</p> <p>(iii) The apportioning of costs according to viewer-ship was similar to the former royalty arrangement under the repealed Television</p>	

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		<p>Ordinance (TO). In the former TO regime, TV licensees were required to pay royalties which to a certain extent reflected the market share of the licensees. Royalties were abolished with the repeal of the TO upon the enactment of the BO in 2000</p>	
003640-004334	Ms Emily LAU Administration	<p>(a) Member's follow-up on the concern expressed by PCCW Media Limited that it was unreasonable for TELA to recover the increase in administrative costs for handling regulatory matters relating to competition and firewall provisions in the licences of Television Broadcasts Limited (TVB) (a domestic free TV programme service licence) and TVB Pay Vision Limited (a domestic pay TV programme service licence) through the fixed fee component of the licence fee</p> <p>(b) The Administration's advice, as follows -</p> <p>(i) The firewall provisions in the licences of TVB and TVB Pay Vision Limited were measures to prevent undue preference and cross-subsidization between the two licensees; and</p>	

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		<p>(ii) Given that the firewall provisions were in connection with regulatory issues relating to competition in the market and the provision of a level-playing field for all market participants, such enforcement costs, including verification of licensees' compliance with the provisions and handling of complaints, were generally regarded as licence administration costs and hence reflected in the fixed fee component</p>	
004335-004622	Chairman Administration	<p>(a) Member's suggestion that as not much regulatory work would arise from the administration of Type B Licence for providing TV service for hotel rooms, consideration should be given to adopting other light-handed regulatory approaches for such services, such as issuing class licence which might reduce both regulatory burden borne by the industry and administrative work of the regulator</p> <p>(b) The Administration's agreement to consider the Subcommittee's view on streamlining the existing licensing regime</p>	

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004623-005135	Cable TV Chairman Administration	<p>(a) Deputation's views, as follows -</p> <ul style="list-style-type: none"> (i) Whether the existing regulatory regime and licence administration system were still justified in the current highly competitive market environment; (ii) The Administration should have envisaged the increase in enforcement costs in relation to the competition and firewall provisions when devising the regulatory regime of the broadcasting industry during the enactment of the BO in 2000; and (iii) As firewall provisions were applicable to the two licensees only, costs incurred in this regard should be borne by the licensees concerned <p>(b) The Administration's emphasis that work relating to the enforcement of firewall provisions was conducive to maintaining a level-playing field in the entire TV market, not just the TV licensees concerned.</p>	
005136-005341	Ms Emily LAU Administration	(a) Member's enquiry on the regulatory issues pertaining to the programme standards of TV	

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		<p>service provided for hotel rooms</p> <p>(b) The Administration's advice, as follows -</p> <p>(i) Relevant programme standards were stipulated in the Codes of Practice issued by the BA; and</p> <p>(ii) In general, more stringent standards was applicable to domestic TV programme service vis-à-vis hotel TV programme service in view of difference in pervasiveness</p>	
005342-005439	Chairman Mr Howard YOUNG	Members' suggestion of issuing class licence for TV service provided for hotel rooms with a view to reducing both regulatory burden borne by the industry and the administrative work of the regulator	
005440-005722	Chairman Ms Emily LAU	Members' support for the Broadcasting (Revision of Licence Fees) Regulation 2006 and agreement to report the Subcommittee's deliberations to the House Committee on 16 June 2006	