

立法會
Legislative Council

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Panel on Information Technology and Broadcasting

**Minutes of special meeting
held on Tuesday, 17 October 2006, at 4:35 pm
in Conference Room A of the Legislative Council Building**

- Members present** : Hon Albert Jinghan CHENG (Chairman)
Hon SIN Chung-kai, JP (Deputy Chairman)
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Howard YOUNG, SBS, JP
Hon Emily LA U Wai-hing, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon Albert CHAN Wai-yip
- Members absent** : Hon Fred LI Wah-ming, JP
Dr Hon LUI Ming-wah, SBS, JP
Hon Ronny TONG Ka-wah, SC
- Public officers attending** : Agenda Item I

Mr Joseph WONG, GBS, JP
Secretary for Commerce, Industry and Technology

Mr Francis HO, JP
Permanent Secretary for Commerce, Industry and
Technology (Communications and Technology)

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

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

Agenda Item II

Mrs Marion LAI, JP
Deputy 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)

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

Staff in attendance : Ms Pauline NG
Assistant Secretary General 1

Ms Debbie YAU
Senior Council Secretary (1)1

Miss Erin TSANG
Senior Council Secretary (C)4

Ms Sharon CHAN
Legislative Assistant (1)6

Action

I Briefing by Secretary for Commerce, Industry and Technology on relevant policy initiatives in the Chief Executive's Policy Address 2006/2007

(LC Paper No CB(1)53/06-07(01) -- Policy Initiatives of Communications and Technology Branch, Commerce, Industry and Technology Bureau

LC Paper No CB(1)95/06-07(01) -- Speaking note of Secretary for Commerce, Industry and Technology)

Two booklets provided by the Administration

- (a) Address by the Chief Executive at the Legislative Council meeting on 11 October 2006 -- "Proactive Pragmatic Always People First"; and
- (b) The 2006-07 Policy Address -- "Policy Agenda"

Introduction by the Administration

At the invitation of the Chairman, the Secretary for Commerce, Industry and Technology (SCIT) introduced the initiatives concerning telecommunications, broadcasting, film, information technology and e-government services in the 2006-2007 Policy Agenda.

Discussion

2. The Chairman advised that as far as practicable, he would not impose restriction on Members' speaking time.

Digital terrestrial television

3. Noting that in implementing digital terrestrial television (DTT) broadcasting, the two incumbent domestic free television programme (FTV) service licensees would start simulcast in 2007, Mr Howard YOUNG enquired whether a decision had been made on the DTT technical standard to be adopted for Hong Kong.

4. In response, the Permanent Secretary for Commerce, Industry and Technology (Communications and Technology) (PSCIT(CT)) advised that according to the implementation timetable, the two FTV licensees, Asia Television Limited (ATV) and Television Broadcasts Limited (TVB) were required to finalize the DTT technical standard by the end of 2006. He understood that both ATV and TVB were conducting feasibility tests on the national technical standard officially promulgated by the Mainland in August 2006. Pending the outcome of the tests, the licensees would make a decision between the choice of the Mainland standard and DVB-T, the European standard. In reply to Mr Howard YOUNG's further enquiry, PSCIT(CT) advised that DVB-T had been in use in many European countries for years and hence, the associated hardware and reception devices were readily available in the market. In fact, both ATV and TVB had carried out tests on DVB-T a couple of years ago. However, according to the two FTV licensees, their business opportunities could be increased if they adopted the Mainland standard since their DTT programmes would be receivable by households in the Mainland. As such, they preferred to use the Mainland standard.

Opening up public access channels for the use of the community

5. Considering that Hong Kong had lagged behind other developed places in the provision of broadcasting services since it was served by only three radio broadcasters, Mr LEUNG Kwok-hung called on the Administration to open up the

airwaves to meet the broadcasting needs of the community. He was very concerned that the Citizens' Radio had not been notified by the Administration of any progress of their application submitted some ten months ago for a radio broadcasting licence until recently after the Citizens' Radio had held a media briefing. He also expressed dismay that the Administration had seized from Citizens' Radio its broadcasting equipment earlier on. Noting in the Administration's interim reply that it had referred the matter to the Chief Executive (CE) for his consideration, Mr LEUNG enquired on when CE's attention was first drawn to the issue. He also asked whether SCIT would recommend to CE to impose a requirement on the existing three radio stations to release their surplus spectrum for use as public access channels.

6. In response, SCIT remarked that the number of broadcasters and their nature (i.e. commercial and public service/community broadcasting) formed part of Hong Kong's broadcasting landscape. As pointed out in the Administration's information paper provided for the Panel meeting on 14 November 2005 (LC Paper No CB(1)238/05-06(03)), Hong Kong was a geographically small city and it was already served by 13 publicly-funded or commercial radio channels with programmes that facilitated expression and exchange of opinions. Nevertheless, as undertaken at the motion debate on "Policy on Public Service Broadcasting" at the Council meeting on 8 February 2006, the Administration would be prepared to consider the views, if any, of the Committee on the Review of Public Service Broadcasting (Review Committee) on the subject of public access or community channels.

7. SCIT further advised that the application of Citizens' Radio had reached the final stage of processing. He was not in a position to give any comment at this stage, in particular if the applicant concerned was contemplating legal proceedings such as judicial review.

8. Mr LEUNG Kwok-hung was unconvinced. As there were currently only three radio broadcasters in Hong Kong, he requested SCIT to indicate whether he was satisfied that they could adequately address the broadcasting needs of the community. The Chairman also enquired whether the Government would conduct a review on sound broadcasting services.

9. In response, SCIT considered that the existing broadcasting services already provided a wide range of programmes which could facilitate the expression and exchange of opinions. In addition to radio and television broadcasting, many online broadcasting channels were accessible by the general public. SCIT further advised that to enable the community to reap the maximum benefit from the deployment of radio spectrum, the Administration had developed a revised spectrum policy framework which would provide guidance to the Telecommunications Authority (TA) in tackling spectrum management issues in future. Under the proposed framework, there might be room for interested parties to provide multi-media services, including telecommunications and broadcasting services. The Administration was going to launch a three-month public consultation exercise within this year to solicit views from the public and the

industry on the proposed spectrum policy framework. The Chairman advised that the item on "Proposed Spectrum Policy Framework" had been included in the Panel's "List of outstanding items for discussion".

10. Mr Albert CHAN did not subscribe to the Administration's response. He considered that when compared to neighbouring places like Taiwan, there were far too few radio broadcasters in Hong Kong. Mr CHAN saw the present arrangement as a means for the Government to curb the freedom of expression, which also violated the Government's advocated principle of "Big Market, Small Government". He also pointed out that broadcasting airtime had increasingly been taken up by government officials to promote their policies while Members in the democratic camp were seldom invited to express their views via the airwaves. Mr CHAN also expressed his concern that certain big consortia had gradually acquired the ownership and control of both the print and electronic media.

11. The Deputy Chairman considered that the possibility of the airwaves being monopolized could be avoided if digital audio broadcasting was implemented, as in the case of many overseas jurisdictions. Digitalization would increase spectral efficiency and make available additional spectrum for allocation to interested parties.

12. Ms Emily LAU agreed with Mr Albert CHAN that the opportunities to appear on radio programmes were mostly given to government officials. She said that even Radio Television Hong Kong, which was supposed to perform the role of a public service broadcaster, could not achieve a balance of viewpoints in its programmes. Ms LAU considered such a development retrogressive and unhealthy. Noting the case of the Citizens' Radio, she urged the Administration to expedite its spectrum policy review with a view to providing alternative platforms for the expression of views.

13. Whilst noting members' concerns about the provision of public access channels, SCIT reiterated that the Administration was prepared to look into the subject in the light of the Review Committee's views, if any. However, he disagreed that opportunities to appear on radio programmes had mostly been taken up by government officials.

Coverage and availability of domestic free or pay television programme services

14. Members noted that according to the guidelines on exemption from service provision requirements issued by the Broadcasting Authority (BA) under section 4(2)(d) of the Broadcasting Ordinance (BO) (Cap. 562), the FTV licensees would normally be exempted from serving those areas where the populations affected by poor television reception were below 2000 persons within an area of a radius of three kilometers. Mr Albert CHAN considered it unreasonable that FTV services were not made available to some villages with a population of about 500 persons. He held the view that similar to the supply of water and electricity, FTV should be available to every Hong Kong resident. As such, he urged the Administration/BA to direct the FTV licensees to provide services for the villages instead of advising

the affected villagers to install a low-power domestic-grade television transposer at their own cost. Mr CHAN also called on the Administration to open the FTV service market to promote competition.

15. The Deputy Chairman noted that the FTV signals, which were hitherto receivable by households in many villages, were now blocked by newly built high-rise buildings. As such, he urged the Administration/BA to request the FTV licensees to build new television transposers for the villages concerned.

16. Highlighting the current technical limitations that the FTV licensees could not provide universal service coverage, SCIT assured members that when more spectrum became available for use upon the implementation of DTT, new players who were interested to offer telecommunications, broadcasting and other value-added services might enter the market and provide new services.

17. On service coverage, PSCIT(CT) said that at present, the incumbent fixed telecommunications service provider had a Universal Service Obligation under which it was required to, inter alia, provide basic fixed telecommunications service in all parts of Hong Kong. The losses incurred in serving those "uneconomical customers" were met by Universal Service Contributions. However, there was at present no consensus or policy decision that FTV was a basic necessity like fixed telecommunications services because people's need for information could be met by radio programme services free of charge.

18. Mr Albert CHAN did not agree that there was no consensus in regarding FTV services as a basic necessity and considered that the aforesaid guidelines under section 4(2)(d) of the BO obsolete. He also urged the Government to provide the villages concerned with low-power domestic-grade television transposers to enable them to receive FTV services.

Review on the broadcasting regulatory regime

19. Members noted that convergence of telecommunications, broadcasting and information technology was gradually transforming the conventional sector-based markets into a cross-sector multimedia market. The Administration would continue its ongoing study on the broadcasting regulatory regime in Hong Kong to assess whether it remained effective in the development and advancement of the electronic communications industry and the introduction of new and innovative services. The Deputy Chairman sought elaboration on the Administration's policy stance.

20. In response, PSCIT(CT) highlighted that in the light of technological and market convergence in the electronic communications sector, the boundaries between telecommunications, broadcasting and information technology were blurring. Citing the recent incident in which the European Union's proposal to regulate the content uploaded by the citizens of its members onto the Internet was met with much opposition, PSCIT(CT) said that while Hong Kong would not attempt to regulate content transmitted over the Internet, it would need to update its

regulatory regime in the light of the latest technological and market development, in particular when broadcasting services were now receivable on mobile phone or other hand-held devices. He pointed out that it was timely for Hong Kong to consider whether and how to regulate the telecommunication and broadcasting services in an era of convergence. PSCIT(CT) further advised that the Administration had taken into account the international best practice and local characteristics in the review exercise, and would consult the industry and public should any changes to the existing regulatory regime be considered necessary.

Review of the Control of Obscene and Indecent Articles Ordinance (COIAO) (Cap. 390)

21. Members noted that the Television and Entertainment Licensing Authority (TELA) was now reviewing the provisions in COIAO to assess if they would need to be strengthened. While sharing the concerns of the public against the publication of indecent articles, Ms Emily LAU urged the Administration/TELA to be cautious in striking a proper balance to avoid impacting on the freedom of expression.

22. In response, SCIT highlighted that the review aimed at addressing growing concerns from the community over the inclusion of objectionable materials in publications, such as whether existing sanctions being imposed on these articles were sufficient. He assured members that the Administration/TELA would uphold freedom of expression as an overriding concern during the review and consult the public and Members on the outcome of the review in due course.

Support measures rendered to the film industry

23. Members noted that one of CITB's new initiatives was to rationalize the institutional framework of government and public organizations in respect of film industry development and support through entrusting the SCIT to co-ordinate the relevant policy, planning and activities, including manpower training, Mainland and overseas promotion, and filming support. The Administration also planned to set up a new non-statutory Hong Kong Film Development Council (FDC) to succeed the existing Film Development Committee. Mr Jasper TSANG sought elaboration on the changes to the framework and on the work of FDC.

24. In response, SCIT explained that, while CITB was currently responsible for the policy on the development of the film industry, a number of bureaux (e.g. CITB, Education and Manpower Bureau and Home Affairs Bureau), departments (e.g. TELA, Leisure and Cultural Services Department) and related agencies (e.g. Hong Kong Trade Development Council (HKTDC)) had been implementing various supportive measures for different segments of the value chain of film production and marketing. The Government therefore saw a need to rationalize the institutional framework so that SCIT would be entrusted to co-ordinate all these relevant policy, planning and activities. SCIT expected that the new structure would be more efficient as CITB would co-ordinate all film-related measures within the Government and provide one-stop services to the industry. On FDC,

SCIT said that it would be a high-level body which would assume greater responsibility and support him in developing and implementing a coherent strategy for the further development of the industry. Consideration would also be given to inviting representatives of the aforesaid bureaux, departments and agencies involved and industry players to join the FDC.

25. Recalling that the Administration had previously stated that it would not invest directly in film productions, Ms Emily LAU was concerned as to whether the Government had changed its position by setting up the Film Investment Fund (FIF).

26. In response, SCIT clarified that the proposal to set up the FIF was one of the recommendations in the interim report of an independent consultancy study commissioned by the Film Development Committee. Under the proposal, the Government could provide a limited level of support to budding and small to medium-sized film makers. SCIT said that while the Administration was aware of some views that the Government should not provide direct financial support to a specific industry, it would maintain an open mind and further discuss with members of the Film Development Committee on the establishment of FIF. Recalling that since 1999, the Government had implemented various support measures for the film industry, including the establishment of the Film Development Fund and the Film Guarantee Fund (FGF), SCIT assured members that in considering any support measures rendered to the film industry, the Administration would continue to ensure that public resources would be properly deployed and that the measures would benefit not only the film industry but also the overall economic development of Hong Kong.

27. Mr Timothy FOK conveyed the support of the film industry for the establishment of the new FDC and the proposed FIF. In reply to his enquiry on measures to open up the Mainland market, SCIT said that the Administration would continue to explore development opportunities for the film industry with the relevant Mainland authorities in the context of the Mainland and Hong Kong Closer Economic Partnership Arrangement.

28. Noting that it had been difficult for small to medium-sized film makers to finance film-making, Mr Jasper TSANG sought information on the assistance provided under FGF. In response, PSCIT(CT) highlighted that FGF provided loan guarantees to local participating lending institutions that offered loan facilities to film productions that had secured a film completion arrangement. All film production companies registered locally that had produced at least two films in the past 10 years for commercial release in Hong Kong before applying for a guarantee under the scheme were eligible to apply for a guarantee. So far, a total of ten applications had been received since the launch of the FGF in April 2003 and all had been granted loan guarantees. He said that the figure was lower than the original estimation. On the possible causes of the low response, PSCIT(CT) noted that according to the film industry, the FGF scheme was not applicant-friendly in that it had a high threshold and the application procedures were cumbersome. Moreover, the lending institutions would usually like to ascertain whether the Government was willing to provide guarantee first before offering the loans.

Nevertheless, the Administration was assessing the usefulness of FGF to the budding and small to medium-sized film makers. If necessary, the Administration might consider other forms of assistance to them.

29. The Chairman also reflected the view of the film industry about the inadequacies of the FGF scheme in addressing the needs of the film-makers. Mr Jasper TSANG proposed that the Panel should examine the effectiveness of the FGF and other support measures rendered to the film industry. Members agreed.

(Post-meeting note: The subject has been included in the Panel's "List of outstanding items for discussion".)

II Revisions to the Accuracy Requirement in the Generic Code of Practice on Television Programme Standards and Radio Code of Practice on Programme Standards

(LC Paper No. CB(1)33/06-07(01) -- A specimen copy of the letters from members of the public objecting to revisions to the accuracy requirement in the Generic Code of Practice on Television Programme Standards and Radio Code of Practice on Programme Standards

LC Paper No. CB(1)33/06-07(02) -- Information paper provided by the Administration)

30. The Chairman informed members that the Panel had written to Mr Daniel FUNG, Chairman of BA, to invite him as well as the Codes of Practice Committee to attend the special meeting. However, BA was represented by only its executive staff in TELA. The Chairman further advised that he had also attempted to call Mr FUNG to see if the gazettal of the revisions to the accuracy requirement in the Generic Code of Practice on Television Programme Standards and Radio Code of Practice on Programme Standards could be deferred. However, Mr FUNG was out of town. The Chairman said that he would write to Mr FUNG again, and request him to accept the Panel's invitation in future to meet with the Panel and discuss issues of concern.

(Post-meeting note: The Chairman's letter dated 18 October 2006 to Mr FUNG and Mr FUNG's reply have been circulated to members on 19 October and 15 November 2006 respectively vide LC Paper Nos. CB(1)116/06-07 and CB(1)291/06-07.)

Introduction by the Administration

31. At the invitation of the Chairman, the Commissioner for Television and Entertainment Licensing (C for T&EL) informed members of the established procedures adopted by BA in reviewing and revising its television and radio codes of practices issued under BO and the Broadcasting Authority Ordinance (BAO) (Cap. 391), and how the revised provisions concerning accuracy requirements for certain types of factual programmes would apply to television programme service and sound broadcasting licensees. She said that the Codes of Practice Committee (BACPC) established under BA was responsible for keeping the television and radio broadcasting standards under regular review and making recommendations to BA on amendments to the codes of practices when necessary. C for T&EL confirmed that at present, the requirement for accuracy of factual contents under the television and radio codes of practices already applied to the following types of factual programmes – news, current affairs programmes, personal view programmes, documentaries and programmes adopting an investigative style of reporting. In view of the complaints received by BA from time to time on inaccurate content in certain factual programmes, the current proposal by BACPC only sought to extend the accuracy requirement in the relevant codes of practices to cover four additional types of programmes namely, financial programmes, children's programmes with educational purpose, programmes dealing with medical and health issues, and contests.

Discussion

32. In reply to the Chairman, C for T&EL confirmed that the proposed revisions would only extend the existing requirements for licensees to make reasonable efforts to ensure accuracy of factual content to four additional programme types. She added that the "accuracy" requirement was not new to the television and sound broadcasting licensees. At present, apart from news, current affairs programmes, personal view programmes, documentaries and programmes adopting an investigative style of reporting, the relevant codes of practices on advertising standards also required broadcasters to ensure that all advertisements were honest and that factual claims were capable of substantiation.

Concerns expressed in the letters objecting to the revisions

33. The Deputy Chairman noted that according to the specimen copy of the letters (LC Paper No. CB(1)33/06-07(01) from members of the public objecting to the revisions, BA seemed to have decided on the amendments behind closed door without due regard to the need to consult the public. He also shared the concern about whether BA possessed the necessary expertise to assess the accuracy of factual contents in the programmes, such as medical and health programmes, when dealing with complaints.

34. In response, C for T&EL highlighted that in considering whether or how the codes of practices should be amended, BACPC would always consult the broadcasting licensees and the public prior to meetings, except when only technical

amendments were involved. If the revisions related to a specific subject, they would also consult the relevant professional bodies and the industry. In dealing with complaints about the accuracy of factual contents in the programmes, the BA would consult relevant experts in government departments/agencies and external professional bodies. She assured member that BA did not have any preconceived standards for "accuracy" and was prepared to consider any relevant supporting documents or evidence provided by the licensees. For example, the BA would consult professional Chinese medical doctors and not doctors of western medicine when dealing with complaints about the accuracy of factual contents related to Chinese medicine. C for T&EL further advised that the meetings of BACPC were open to the public and a press notice announcing the date of its meeting was issued before each meeting.

35. In this connection, the Deputy Chairman considered that BA should model on the practice adopted by TA to conduct public consultation and address divergent concerns before proceeding to finalize proposed changes.

36. In response, C for T&EL advised that BA had all along attached great importance to public views. BA and its committees undertook public consultation through the Television and Radio Consultative Scheme and there were currently about 540 members of the public on the Scheme. They were recruited from the 18 geographical districts with membership profile matching the profile of the Hong Kong population compiled by the Census and Statistics Department. In reply to the Chairman's enquiry as to how members of the public could apply to join the Scheme, C for T&EL undertook to provide the information after the meeting.

BA

(Post-meeting note: Information on how members of the public can join the BA's Television and Radio Consultative Scheme has been circulated to members vide LC Paper No. CB(1)357/05-06 on 22 November 2006.)

37. Mr Howard YOUNG welcomed the revisions and considered that the public had a reasonable expectation to receive factually correct information from the electronic as well as the print media. Mr YOUNG was concerned how BA could assess the accuracy or otherwise of the forecast of the price movement of a certain stock in a financial programme, as well as how it could judge whether the licensee concerned had exercised reasonable diligence in ascertaining the accuracy of the information.

38. In response, C for T&EL pointed out that the forecast of stock prices was often a matter of the personal view of the programme host or guest which was not subject to the accuracy requirement. However, other factual information such as the stock prices and the Hang Seng Index quoted should be accurate. C for T&EL reiterated that to fulfill their requirement on accuracy, the licensees only needed to demonstrate that they had taken reasonable efforts to ensure the accuracy of the factual content being broadcast.

39. Ms Emily LAU did not subscribe to the Administration's explanation on the conduct of public consultation. In view of the many copies of complaint letter

received by some Members' offices, Ms LAU urged BA to re-examine whether the existing consultation procedures are adequate in gauging the concerns of affected parties. She enquired on the justification for the revisions and the licensees' response to the revisions.

40. C for T&EL said that she would convey the member's concern to BA for consideration. Noting that some stakeholders in the medical and health sector were worried about the accuracy standard to be adopted in medical issues-related programme, C for T&EL confirmed that the revised "accuracy" requirement would not promote the predominance of any particular school of thought in any field. On the licensees' responses to the revisions, she said that in general, they considered that the present accuracy requirement was adequate and no extension was necessary. However, between January 2005 and September 2006, BA had received about 250 complaints relating to the accuracy of factual contents in programmes that fell outside those factual programmes to which the present accuracy requirement applied, which accounted for about 40% of the complaints about inaccuracy of factual contents in programmes during the period. Since these complaints were outside the existing regulatory scope, TELA could not take any action on them. In view of this, BA accepted BACPC's recommendations to extend the accuracy requirement to four other types of factual programmes and by doing so, some of such complaints could be dealt with. C for T&EL added that the purpose of the amendments was to strike a balance between meeting the rising public's expectation of factual accuracy in programmes and minimizing the regulatory burden on the broadcasters in ensuring compliance.

41. Ms Emily LAU considered that in preparing its information paper on the subject, TELA should have included a section on public consultation detailing the views of the licensees and stakeholders, as well as BA's response to the consultation outcome etc. for members' reference. As to whether the revisions would still be gazetted in October 2006 and put into effect, C for T&EL advised that the matter would need to be further considered by BA. In this connection, Ms LAU requested BA to inform the Panel in writing of its decision in due course.

BA

(Post-meeting note: The BA has subsequently decided to proceed with the gazettal of the captioned amendments in November 2006. BA's letter has been circulated to members on 31 October 2006 vide LC Paper No CB(1)201/06-07(01).)

Programmes broadcast on the English channels of FTV broadcasters

42. On a separate subject, Mr Albert CHAN expressed concern that there was an increasing proportion of non-English programmes broadcast on the English channels of the two FTV broadcasters. He also noticed that occasionally, they had re-broadcast the same programme of CCTV 9 at the same time-slot. In response, C for T&EL advised that pursuant to Condition 2 of the First Schedule of the FTV service licence, the two FTV licensees were given approval by BA to broadcast on their English channels programmes up to 20% of the broadcast time in languages other than English and Cantonese outside the hours between 7:00 pm. and

11:30 pm. Regarding repeat broadcasts, C for T&EL said that the FTV operators enjoyed full autonomy in deciding the programmes to be broadcast in their television programme service.

III Any other business

43. There being no other business, the meeting ended at 6:15 pm.

Council Business Division 1
Legislative Council Secretariat
4 December 2006