

工商及科技局
通訊及科技科

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5 January 2007

Miss Erin Tsang
Clerk to Information Technology and Broadcasting Panel
Legislative Council
Legislative Council Building
8 Jackson Road, Central
Hong Kong

Dear Miss Tsang,

**Legislative Council
Panel on Information Technology and Broadcasting
Special Meeting on 11 January 2007**

I refer to your letter of 11 December 2006 to Mr Joseph Wong, listing the concerns raised by members at the special meeting held on 23 November 2006 on issues relating to the proposed change in shareholding in PCCW Limited and cross-media ownership.

I wish to provide the Administration's response as follows –

Questions (a) to (b)

We note that the Broadcasting Authority (BA), the independent regulator of broadcasting industry, announced today (5 January 2007) that pursuant to section 10(1) of Schedule 1 to the Broadcasting Ordinance (Cap. 562), the BA has required PCCW Media Limited and other relevant parties to provide information as to the voting controllers of PCCW Media Limited. It is inappropriate for the Administration to comment on the case.

Questions (c) to (d)

These questions refer to hypothetical issues on a specific case which is under scrutiny of the BA as mentioned in the above reply to questions (a) and (b). It is therefore inappropriate for the Administration to comment on these questions.

Question (e)

It is the view of the Telecommunications Authority that the definition of “associated person” in the Telecommunications Ordinance (Cap. 106) (TO) applies to a consortium of investors comprising charitable foundations founded by a close relative of the Chairman and a director of a carrier licensee.

There is no distinction in the TO between not-for-profit organisations and other corporate bodies. Basically any corporate body, whether it is a charitable institution or not, will qualify as an “associated person” as well as all natural persons and all partnerships.

Where a charitable foundation is involved in the acquiring consortium, the founder’s relatives will also be regarded as “associated” if the founder controls the charitable foundation or serves as a director or principal officer of the charitable foundation.

Question (f)

The Telecommunications Authority has the power under the existing provisions of the TO to regulate a change in relation to a carrier licensee where the change involves the acquisition of shareholding in the licensee through or by means of a charitable fund/foundation.

In terms of section 7P(16) of the TO, “a change in relation to a carrier licensee” will occur if any person, either alone or with any associated persons (and as noted above, such associates include charitable foundations) becomes the beneficial owner or voting controller of more than the specified thresholds of the voting shares in the licensee or

acquires the power to ensure that the affairs of the licensee are conducted in accordance with the person's wishes.

By virtue of section 3 the Interpretation and General Clauses Ordinance (Cap. 1), "person" includes "*any public body and any body of persons, corporate or unincorporated...*" and so includes a company or an unincorporated trust, established for charitable purposes.

Questions (g) and (h)

The regulatory regime for telecommunications in Hong Kong is open and transparent. There is no restriction on foreign ownership of assets or shares of telecommunications companies in any laws of Hong Kong.

On the proposed sale of assets of PCCW Limited, the Administration has all along acted in accordance with the provisions of the TO. The Administration will not comment on the commercial decisions of the relevant parties or the speculations in the media relating to the proposed sale of assets of PCCW Limited. As an independent member of the World Trade Organisation (WTO), Hong Kong, China will strictly comply with the commitments made to the WTO on the opening up of Hong Kong's telecommunications markets.

Yours sincerely,



(LI Yeuk-yue, Tony)

for Secretary for Commerce, Industry and Technology

- c.c. Director-General of Telecommunications
(Attn.: Mr Bernard Hill)
Commissioner for Television and Entertainment Licensing
(Attn.: Mr P L Po)