

立法會
Legislative Council

LC Paper No. CB(1)2151/07-08
(These minutes have been seen by
the Administration)

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Panel on Information Technology and Broadcasting

Minutes of meeting
held on Tuesday, 13 May 2008, at 4:30 pm
in Conference Room A of the Legislative Council Building

- Members present** : Hon Albert Jinghan CHENG, JP (Chairman)
Hon SIN Chung-kai, SBS, JP (Deputy Chairman)
Dr Hon David LI Kwok-po, GBM, GBS, JP
Hon Fred LI Wah-ming, JP
Dr Hon LUI Ming-wah, SBS, JP
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Howard YOUNG, SBS, JP
Hon Emily LAU Wai-hing, JP
Hon Albert CHAN Wai-yip
- Members absent** : Hon Bernard CHAN, GBS, JP
Dr Hon Philip WONG Yu-hong, GBS
Hon Timothy FOK Tsun-ting, GBS, JP
Hon Ronny TONG Ka-wah, SC
- Public officers attending** : Agenda Item IV

Mr Jeremy GODFREY
Government Chief Information Officer
Office of the Government Chief Information Officer

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

Mrs DO PANG Wai-yee
Acting Deputy Government Chief Information Officer
(Planning and Strategy)
Office of the Government Chief Information Officer

Mr Bassanio SO
Assistant Government Chief Information Officer
(Special Duties)
Office of the Government Chief Information Officer

Ms Caroline FAN
Chief Systems Manager (E-government Policy and
Development Division)
Office of the Government Chief Information Officer

Agenda Item V

Mr Alan SIU, JP
Deputy Secretary for Commerce and Economic
Development (Communications and Technology)

Mrs Marion LAI, JP
Director-General of Telecommunications

Mr T F SO
Assistant Director of Telecommunications (Support)

Miss Helen LAI
Principal Regulatory Affairs Manager (Telemarketing
Regulation)
Office of the Telecommunications Authority

Agenda Item VI

Mr Frederick S MA, JP
Secretary for Commerce and Economic Development

Mr Alan SIU, JP
Deputy Secretary for Commerce and Economic
Development (Communications and Technology)

Mrs Marion LAI, JP
Director-General of Telecommunications

Mr Y K HA
Deputy Director-General of Telecommunications

Clerk in attendance : Ms YUE Tin-po
Chief Council Secretary (1)3

Staff in attendance : Ms Annette LAM
Senior Council Secretary (1)3

Mr Simon CHEUNG
Council Secretary (1)1

Ms May LEUNG
Legislative Assistant (1)6

Action

I. Confirmation of minutes of meeting

(LC Paper No. CB(1)1418/07-08 -- Minutes of special meeting held on 19 February 2008)

The minutes of the meeting held on 19 February 2008 were confirmed.

II. Information paper issued since last meeting

2. Members noted that no paper had been issued since the last meeting held on 14 April 2008.

III. Date of next meeting and items for discussion

(LC Paper No. CB(1)1456/07-08(01) -- List of outstanding items for discussion

LC Paper No. CB(1)1456/07-08(02) -- List of follow-up actions)

Special meeting on 30 May 2008

3. The Chairman said that in view of the several recent data leakage incidents involving Government departments and hospitals, a special meeting would be held on Friday, 30 May 2008 at 8:30 am to discuss the item "Issues relating to the recent losses of portable electronic storage devices containing personal data held by government departments/public hospitals and online leakage of confidential information held by the Immigration Department". Members of the Panel on Security and the Panel on Health Services and other Members of the Legislative Council would also be invited to participate in the discussion of the item. Representatives of the various bureaux/departments concerned, the Office of the Privacy Commissioner for Personal Data (PCO), and the Office of the Government Chief Information Officer (OGCIO) would be invited to the meeting. Considering that the PCO would inspect personal data systems at public hospitals, and that the Hospital Authority had set up a Task Force on Patient Data Security and Privacy

(Task Force) to investigate the data leaks from public hospitals and review the existing policies and security systems on patient data protection, members agreed not to invite submissions from deputations at the present stage.

Regular meeting on 10 June 2008

4. Members noted that the next regular Panel meeting would be held on Tuesday, 10 June 2008 at 4:30 pm to discuss the following items proposed by the Administration:

- (a) Progress report on the 2008 Digital 21 Strategy;
- (b) Progress update on the provision of Wi-Fi facilities at Government premises;
- (c) Research report on the regulation of radio broadcasting services in selected places; and
- (d) Coverage and availability of domestic free and/or pay television programme services.

IV. Progress update on the E-government Programme

(LC Paper No. CB(1)1456/07-08(03) -- Paper provided by the Administration

LC Paper No. CB(1)1456/07-08(04) -- Background brief prepared by the Legislative Council Secretariat)

Remarks made by the Government Chief Information Officer on the recent data leakage incidents involving Government departments/hospitals

5. Before presenting the latest progress of the E-government programme, Government Chief Information Officer (GCIO) of the Office of the Government Chief Information Officer (OGCIO) made a statement on the Government's response to the recent data leakage incidents involving Government departments and hospitals, outlining the immediate measures taken by the Administration as well as the future steps to address the problem. He stressed that the Government took a serious view on information security and the protection of personal data, and regretted the recent data leaks. Investigations into the data leakage incidents were in progress and the preliminary findings suggested most of the incidents were caused by a lack of awareness of the established security policies and procedures, leading to failure to comply with them. To raise Government officials' awareness of the established data security policies and procedures, and to facilitate compliance, the Director of Administration had issued guidelines to all civil servants on the storage of personal or classified data on portable electronic storage devices to remind them of the relevant regulations and advising them of practical means of compliance. He then outlined the steps to be taken to build on the interim

guidance as follows:

- (a) the OGCIO and the Civil Service Bureau would work with Departmental IT Security Officers and Heads of bureaux and departments to further enhance public servants' awareness of security regulations, their commitment to compliance, and know-how on compliance;
- (b) independent security audits of bureaux and departments would be enhanced with particular emphasis on compliance with the regulations on the use of portable storage devices. Bureaux and departments who had already been audited would be requested to confirm their compliance with these regulations; and
- (c) IT security policies, regulations and practices would be reviewed between May and the end of September 2008 in the light of the findings of investigations into the recent incidents.

6. In summing up, GCIO reiterated the Administration's determination to educate and assist public officers to secure the highest possible degree of compliance with information security regulations and hence the highest level of security of personal data of Hong Kong citizens. At members' request, the statement made by GCIO was tabled at the meeting.

7. Mr SIN Chung-kai expressed concern that the data leaks exposed recently might only be the tip of an iceberg. While welcoming the statement made by the GCIO and the interim measures undertaken by the Administration, he suggested that in addition to reviewing compliance by bureaux and departments, the Administration should also take the opportunity to examine the underlying reasons for using portable electronic storage devices to bring classified personal and classified data outside workplace, such as whether it was due to heavy workload, or inadequate infrastructure support in the office, or insufficient number of PCs in the office. He also called on the Administration to review the security guidelines for taking classified files/data out of workplace and to enhance the related security facilities and upgrade the security infrastructure such as setting up a virtual private network for officers to work at home after office hours.

8. Noting that the concerned bureaux and departments were investigating into their respective data leaks, Ms Emily LAU requested the Administration to advise the Panel at its special meeting to be held on 30 May 2008 at what time the investigations were expected to be completed. She also urged the Administration to submit a report on the investigations' findings and recommendations as soon as practicable before the close of the current legislative session. GCIO undertook to ascertain the timetable of the investigations with the concerned bureaux and departments.

Briefing by the Administration on the E-government programme

9. At the invitation of the Chairman, GCIO briefly outlined the progress on the implementation of E-government programmes as follows:

- (a) *Improved satisfaction and usage of core services during 2007-2008*, which included a significant overhaul of the delivery of E-government services, increased usage of Smart Identity (ID) cards, and completion of programme of making Government forms available online.
- (b) *New E-government services launched in 2007-08*, which included the Government Wi-Fi programme, online tax services, Electronic Procurement, and a number of other Government-to-citizen, Government-to-employee and Government-to-Government services.
- (c) *Initiatives to improve the ease of use and enhance the range of existing services*, which included unifying the sign-on process for different E-government services, enriching the content of GovHK, and reviewing how best to partner with the private sector to improve access and usefulness of Government services.

Discussion

Smart ID Card

10. Mr SIN Chung-kai noted that the Finance Committee had recently approved a sum of \$30 million for the World Expo 2010 Shanghai China in which Hong Kong's e-cards, among other themes, would be featured. He opined that the potential of the Smart ID card had not been fully realized and the data storage capability of the chip embedded in the Smart ID card not fully utilized. Pointing out that few departments had made use of the Smart ID card for other applications over the last 10 years, he asked whether the Administration had any plan to develop more user applications for the Smart ID Card and to expand its usage. He urged the Administration to make good use of the Smart ID card as a platform to develop a wide spectrum of digital applications for improving departments' efficiency and productivity.

11. Deputy Government Chief Information Officer (Operation) (DGCIO/O) replied that efforts were being made to encourage and work with bureaux and departments to link up their back-end data bases through the card face data (CFD) and the secure personal identification number embedded in the Smart ID card. He explained that such a move would enable bureaux and departments to make available more of their services on the GovHK portal. In fact, various initiatives on information security had been launched to help promote public confidence in conducting electronic transactions, which would in turn facilitate E-government, e-commerce and the use of digital-certificates. As to whether additional personal data should be stored in the Smart ID Card, he said that the matter had to be

handled carefully, with due regard to privacy and security considerations.

12. The Chairman remarked that for security and privacy reasons, he was of the view that personal information stored in the Smart ID Card should be kept to the minimum. He urged the Administration to strike a balance between making wider use of the Smart ID Card and protecting privacy of the personal data therein.

13. Ms Emily LAU noted that the Registration of Persons Ordinance (Cap. 177) had set out clearly the non-immigration information that could be included in the Smart ID Card. Legislative amendments would be required for any changes or additional inclusion. She concurred with the Chairman that any initiatives to expand the use of Smart ID Card with personal data and privacy implications should be handled with great care. She however agreed with Mr SIN Chung-kai that more applications should be developed using the Smart ID Card to maximize the resources invested.

Support for Small and Medium-sized Enterprises

14. Given that the majority of the small and medium-sized enterprises (SMEs) might not have the necessary resources and capacity for using computers and Internet in their business operations, Ms Emily LAU enquired the measures on promoting the wider use of information communication technology (ICT) among SMEs. DGCIO/O replied that sector-specific e-business promotion programmes had been conducted in collaboration with the industry sectors concerned to enhance the ICT capabilities of SMEs through disseminating best practices information, rendering technical support, and assisting in the development of industry portals for knowledge-sharing and collaboration. The Administration was also exploring with the ICT industry to make available on the market at affordable prices all-in-one packages to SMEs, including computer hardware and software, Internet connection, and support services. In response to Ms LAU's enquiry, DGCIO/O said that according to the Census and Statistics Department, ICT penetration rate of SMEs was low, ranging from about 20% (penetration of websites) to 50% (penetration of internet connection). Acting Deputy Government Chief Information Officer (Planning & Strategy) supplemented that ICT adoption by SMEs had gone up by 2% to 4% in the past year. She undertook to provide the requisite information/statistics after the meeting.

Admin

15. Ms Emily LAU expressed disappointment over the low ICT penetration rate and urged the Administration to identify barriers to ICT adoption among the SMEs. In response, GCIO advised that a task force would be set up in this respect to design more targeted programmes to tackle the problems identified. At the Panel's request, the Administration undertook to report to the Panel in due course the task force's findings and recommendations in respect of barriers to ICT adoption and measures to promote the wider use of ICT among SMEs. In this connection, the Chairman urged the Administration to ensure optimal utilization of the approved provision for E-government.

Admin

(*Post-meeting note:* The information provided by the Administration had been circulated to members vide LC Paper No. CB(1)1830/07-08(01) issued on 10 June 2008.)

V. Progress update on the implementation of the Unsolicited Electronic Messages Ordinance (Cap. 593)

(LC Paper No. CB(1)1456/07-08(05) -- Paper provided by the Administration

LC Paper No. CB(1)1542/07-08(01) -- Administration's paper on progress (*tabled at the meeting and subsequently issued via e-mail on 14 May 2008*) update on the implementation of the Unsolicited Electronic Messages Ordinance (Cap. 593) (power-point presentation material))

Presentation by the Administration

16. At the invitation of the Chairman, Assistant Director of Telecommunications (Support) (AD of T(S)) of the Office of the Telecommunications Authority (OFTA) gave a power-point presentation on the progress of the implementation of the Unsolicited Electronic Messages Ordinance (UEMO) since 1 June 2007 and the full commencement of UEMO on 22 December 2007. Members were briefed on the operation of the three Do-not-call registers (DNCs), the enforcement of UEMO, channels for reporting contraventions, reports received before and after full operation of UEMO, as well as publicity efforts and international collaboration on combating spam as detailed in the Administration Paper (LC No. CB(1)1456/07-08(05)).

17. On the way forward, AD of T(S) said that the OFTA would continue to enforce the UEMO and monitor the compliance situation while keeping up with publicity effort to enhance public awareness of the UEMO. A survey would be conducted in mid-2008 to assess the extent of the problem of person-to-person telemarketing calls which presently were not regulated by the UEMO.

Discussion

Do-not-call registers

18. Noting that the three DNCs for fax, short messages, and pre-recorded telephone messages did not include emails, the Chairman sought clarification on whether emails were regulated under the UEMO. Principal Regulatory Affairs Manager (Telemarketing Regulation) (PRAM(TR)) of OFTA advised that the sending of all electronic messages including emails that were commercial in nature were regulated by the UEMO. AD of T(S) supplemented that while unsolicited commercial fax, short messages, and pre-recorded telephone messages were mainly local, spam emails mostly originated from overseas. As such, the OFTA had established spam emails reporting channels with other jurisdictions to tackle the

problem in this regard. Currently, the OFTA was one of the 11 signatories to the Seoul-Melbourne Multilateral Memorandum of Understanding on Co-operation in Countering Spam. The OFTA was in the process of joining the London Action Plan which was another platform for countering spam and addressing spam-related problems.

19. Referring to the difficulty he experienced in registering onto the DNCs both his telephone number and fax number which co-shared a line, the Chairman asked whether any improvement measures would be introduced. PRAM(TR) replied that registering a number onto the DNCs could normally be done by calling the OFTA registration hotline. The registration system would ensure that the person who tried to register a number onto the DNC was the user of that number by capturing the calling line identification (CLI) information of the caller or by making a verification call to the number to be registered. In some circumstances where a number could not be registered via the registration hotline (e.g. a mobile number that could not show correct outgoing CLI information, or a fixed line number that could not support tone dialing), registrants would be required to fill in a form down-loadable from the OFTA website for verification to ensure the authenticity of the registration. While appreciating the importance of verification for the protection of the registered user, the Chairman considered the verification procedures not user-friendly. In view of the low Internet utilization rate of the small to medium enterprises and the elderly, the Chairman suggested that other than downloading the form from the Internet, the public should be given other options such as collecting the form in district offices.

Subscription accounts

20. Noting that all the numbers registered on the three DNCs (about 720 000 as of mid-May 2008) could be accessed to for unlimited downloading at an annual fee of \$16,000 or \$425 per quarter, the Chairman was concerned that the numbers would be abused by unscrupulous senders for spamming. He enquired what measures were taken to protect the privacy of registered users. AD of T(S) advised that the DNCs contained only the registered phone and fax numbers and there was no other identifiable personal data. PRAM(TR) supplemented that the UEMO prohibited the misuse of information contained in the DNCs. She highlighted that the DNCs should only be used for the purpose of complying with the statutory requirement of not sending commercial electronic messages to the DNC-registered numbers. The use of the DNC information for other purposes not prescribed under the law would constitute an offence. The Director General of Telecommunications (DG of T) pointed out that in addition to the legal protection under the law, it was in fact unnecessary to pay a fee to download the numbers on the DNCs for the purpose of spamming as any 8-digit phone or fax number could be computer-generated in random.

21. In response to Ms Emily LAU's enquiry, AD of T(S) advised that the 720 000 numbers registered onto the three DNCs accounted for about 5% of the 10 million mobile numbers and 3 million fixed line numbers currently in use.

Effectiveness of the UEMO

22. Ms Emily LAU noted that during the Phase 1 implementation from June 2007 to mid-April 2008, OFTA had received a total of about 3 500 reports of contraventions and had issued a total of 25 warning letters while no cases had been found to warrant the issue of enforcement notices. She asked how the number of reports of contraventions compared with the complaint figures prior to the commencement of the UEMO, and whether the introduction of the UEMO had effectively contained the problem of spam.

23. AD of T(S) advised that before the full commencement of the UEMO, there was no legislation in Hong Kong to regulate the sending of commercial electronic messages. As interim measures to contain the problem of spam messages, anti-spam codes of practice were developed by OFTA in collaboration with telecommunications service operators. The codes of practice were enforced by the operators and accordingly complaints were mainly lodged with the operators concerned. The complaint statistics held by the OFTA during that period therefore might not be representative. DG of T added that during the lead up to the full implementation of UEMO, the number of complaints had trended down as some telemarketing companies, in anticipation of the enactment of the legislation, had ceased to deploy pre-recorded messages for marketing. At the Panel's request, the Administration undertook to coordinate with service providers for the provision of respective statistics and breakdown on complaints/reports of contraventions in relation to spam messages received by the OFTA and service providers before and after the commencement of the UEMO.

Admin

(Post-meeting note: The information provided by the Administration was circulated to members vide LC Paper No. CB(1)1705/07-08(01) on 29 May 2008.)

24. Mr Albert CHAN expressed reservation over the effectiveness of the UEMO in tackling the problem of spam. He envisaged that the number of complaints might start to climb up towards festive seasons such as Christmas and also when telemarketing companies began to identify the loopholes of the UEMO. For easy and early identification, Mr CHAN suggested that consideration should be given to prescribe a specific set of prefix for calls of commercial pre-recorded messages so that recipients of such calls could identify the number at the outset and decide whether or not to take the call. As regards spam calls received when the user was travelling overseas and using mobile roaming service, Mr CHAN enquired whether there were provisions requiring the telemarketing company concerned to pay for the roaming charges thus incurred. AD of T(S) and PRAM(TR) responded that the issues had been considered by the Bills Committee during the scrutiny of the Bill. There was practical difficulty in requiring all commercial set-ups to use a designated set of prefix for all calls of commercial nature. Neither could the arrangements effectively address the problem as the mobile roaming service might not be able to display the calling numbers when the user was travelling overseas. On roaming charges incurred by spam calls, AD of T(S) said that any person who suffered loss by reason of a contravention of the UEMO by

others could seek damages through civil proceedings.

25. DG of T said that the pros and cons of various measures had been carefully considered before the enactment of the UEMO. She assured members that the Administration would continue to enforce the UEMO, to monitor the compliance situation, and review the effectiveness of the measures in tackling the problem of spam.

VI. Outcome of the public consultation on the proposed creation of the Unified Carrier Licence

(LC Paper No. CB(1)1456/07-08(06) -- Paper provided by the Administration

LC Paper No. CB(1)1456/07-08(07) -- Extract of minutes of meeting held on 14 January 2008

LC Paper No. CB(1)1542/07-08(02) -- Administration's paper on outcome (*tabled at the meeting and subsequently issued via e-mail on 14 May 2008*) of the public consultation on the proposed creation of the Unified Carrier Licence (power-point presentation materials))

Briefing by the Administration

26. At the invitation of the Chairman, the Secretary for Commerce and Economic Development (SCED) and the Director-General of Telecommunications (DG of T) gave a power-point presentation on the outcome of the two consultation exercises conducted by the SCED and Telecommunications Authority (TA) in December 2007 on the proposals for the creation of a unified carrier licence (UCL) and the related licensing arrangements respectively. Members were briefed on the details of the considerations given to the views expressed and submissions received during the consultation, and the conclusions reached on the relevant issues as detailed in the Administration Paper (LC Paper No. CB(1)456/07-08(06).

27. DG of T said that the proposal to create a UCL had received general support from the respondents. The Administration would proceed with the necessary legislative procedure to amend two pieces of subsidiary legislation under the Telecommunications Ordinance (TO) (Cap. 106). The amendment regulations would be gazetted on 16 May 2008 and tabled in the Legislative Council (LegCo) on 21 May 2008 with a view to completing the negative vetting process within the current legislative session for the new UCL regime to come into force on 1 August 2008. The UCL would be used as the licensing vehicle for broadband wireless access (BWA) service to tie in with the auction of BWA spectrum in the fourth quarter of 2008.

Discussion*The proposed number fee*

28. Referring to paragraph 7 of the submission from Wharf T&T Limited (WT&T) as tabled at the meeting, Mr SIN Chung-kai shared WT&T's query about the rationale and policy objective of the proposed annual fee of \$3 per subscriber number. He was concerned whether the introduction of the number fee based on the assumption of a shortage of 8-digit numbers was fair to fixed network operators (FNOs) while it was the mobile network operators (MNOs) that had been driving the greatest demand for telecommunications numbers. He shared the doubt of WT&T about the assumption of a number shortage and considered that the freeing up of pager numbers with prefix "7" which were currently greatly under-utilized would prolong the life span of the existing 8-digit numbering plan.

29. In response, DG of T said that there was no provision under the existing licensing regime requiring operators to return unused numbers for reallocation. FNOs and MNOs were generally reluctant to return unused numbers due to their vested commercial interests. As telecommunications numbers were scarce public resources and in view of the low utilization rate at around 60% of the numbers allocated, there was a real need to impose a number fee as an economic incentive for operators to make more efficient use of the numbers that had been allocated to them and also to be more prudent in applying for new number blocks, thereby prolonging the lifetime of the existing 8-digit numbering plan. The Consumer Council and Telecommunications Users Group supported it. DG of T said that instead of waiting for FNOs and MNOs to voluntarily surrender the unused numbers, a multi-pronged approach would be adopted. In addition to the proposed number fee, a working group established under the Telecommunications Numbering Advisory Committee would explore other administrative measures to promote better number utilization, such as further raising the utilization threshold for applying new number blocks, allocating new mobile numbers with prefix "5", and freeing up pager numbers with prefix "7". OFTA would work out practical arrangements for operators to return unused numbers. On the rationale for the creation of UCL, DG of T explained that as the boundary between fixed and mobile networks and services had becoming increasingly blurred, the present separate licensing regimes for fixed and mobile services could no longer meet the technological and market developments of converged services. As such, there was a genuine need to create a unified carrier licensing regime conducive to the emergence of fixed mobile convergence (FMC), including new BWA services with both fixed and mobile attributes.

30. Noting that paging operators serving for about 140,000 pager users had taken up around 5 million numbers, Mr SIN Chung-kai questioned why a similar number fee was not proposed for pager numbers. DG of T responded that there was considerable resistance from paging operators to return the unused numbers which was in fact also the case with other operators. It was time critical to introduce the UCL now since the BWA services, a converged service (the spectrum for which would be auctioned shortly) would require the UCL as a licensing vehicle

around end of the year, and the four fixed carrier licences issued in 1995 would expire in 2010. As the licensing of pager service was not covered under the fixed/mobile carrier licences or the proposed UCL, the charging of a number fee for pager numbers would have to be handled separately. She said that paging operators would be urged to return unused numbers for reallocation and it was the Government's intention to also apply the number fee to pager numbers in the near future.

31. In response to Ms Emily LAU's enquiry about the industry's objection to the proposed number fee, SCED stressed that it was in the public interest and for the protection of consumer rights that the number fee was proposed. The number fee was "revenue neutral" and would not bring OFTA any extra income. Indeed, licence fee income would drop if operators returned unused numbers. He said that based on the existing demand and the pace of number allocation, the remaining capacity of the 8-digit numbering plan was expected to be exhausted by 2015. The new number fee would be an effective economic measure to promote more efficient use of the numbering resources, and also a preventive measure to defer the need for migration to a longer-digit numbering plan which would have significant social and cost implications. He appealed to members for their support of the proposed number fee as it was beneficial to the community.

32. DG of T elaborated that the introduction of the number fee was a result of re-structuring the existing carrier licence fee components, such that part of the customer connection fee was taken out to become a fee component chargeable based on the quantity of numbers held by a UCL licensee. The return of numbers to OFTA would lead to reduction of licence fees which in turn might result in a reduction of income for the OFTA. DG of T said that although such a fee was not charged when the numbers were first allocated in Hong Kong, there was sound legal basis for charging the number fee, and it was common for such fee to be charged in other jurisdictions as a means to promote efficient use of numbers.

33. In response to Mr Albert CHAN's concern that operators might pass on the financial cost of the number fee on to customers, SCED and DG of T advised that the number fee should not have significant impact on the operators for setting the retail price level. MNOs would pay less licence fee under the UCL, whereas FNOs would pay \$3 annual number fee (or 25cents per month) which represented only a small sum relative to revenue received for a fixed telephone line. Most importantly, operators could always choose to return unused numbers so as to reduce the licence fee. It was envisaged that in the light of FMC and given the highly competitive telecommunications market, operators would be careful when considering any increase in service charges.

34. Mr Albert CHAN was of the view that a fee of \$3 per number was too low to deter operators from hoarding auspicious numbers. He suggested that a quota on telecommunications numbers should be set for each network operator based on its actual usage of numbers over the last five years. Any unused numbers over and above the quota should be returned to OFTA. Alternatively, a higher fee of, say \$300 per unused number, should be charged. Mr CHAN called on the

Administration to draw up preventive measures to guard against operators from retaining auspicious numbers and releasing only the inauspicious ones.

Consumer protection and dispute resolution

35. Mr Albert CHAN suggested that the income from the number fee should be used to set up an arbitration/litigation fund for financing the investigation, arbitration and litigation of consumer complaints and contractual disputes for telecommunications services. He was disappointed that unscrupulous sales practices for marketing telecommunications services and the hiring of debt collectors to intimidate users, particularly the elderly, in recovering outstanding payment were still rampant. Concern was also expressed that while the operators would crowd the market in affluent districts and commercial areas, consumers in remote areas and low-income districts might not have as much choice of service providers. Referring to franchised mini-buses that required bus operators to run both busy and remote routes, Mr CHAN suggested that telecommunications network operators should also be required to provide services in both economically active areas and underprivileged areas under the new UCL.

36. On setting up an arbitration/litigation fund, DG of T reiterated that the number fee was a result of re-structuring the existing carrier licence fee components and was "revenue neutral" and accordingly would not bring OFTA any extra income if operators returned unused numbers. Moreover, the OFTA Trading Fund was to operate in accordance with the Trading Fund Ordinance (TFO) (Cap. 430) and it was doubtful if the purpose suggested by Mr. Chan fell within the scope covered in the TFO.

37. As regards Mr Albert CHAN's concern about consumer protection, SCED and DG of T stressed that the Administration attached great importance to customer protection and satisfactory resolution of consumer complaints and contractual disputes. To this end, the Administration had proposed to include Special Conditions (SCs) on "Compliance with Codes of Practices" (SC1) and on "Service Contracts and Dispute Resolution" (SC 36) under the new UCL. SCED had personally met with the management of major telecommunications service providers in August 2007 to convey the public and Panel members' concern in this respect. Since then, the number of consumer complaints and contractual disputes had been reduced significantly. Moreover, a pilot voluntary Customer Complaint Settlement Scheme for dispute resolution would be launched.

Legislative timetable

38. Noting that the subsidiary legislation would be gazetted on 16 May 2008 and tabled at the LegCo on 21 May 2008 for negative vetting, Ms Emily LAU asked whether the Administration was confident that it would have the support of the industry for the introduction of the legislative proposals to the LegCo. In view of the tight timeframe and having regard to the objection raised by some market players, she was concerned that Members might not have enough time for scrutiny, as in the case of the Food and Drugs (Composition and Labelling) (Amendments:

Requirements for Nutritional Labelling and Nutrition Claims) Regulations 2008.

39. SCED and DG of T replied that under the proposed fee structure, fixed services would be subject to a higher licence fee. It was therefore natural that carrier licensees, such as WT&T, who were stakeholders with vested interests, would object to paying a higher licence fee and number fee. However, mobile network operators stood to gain from reduction in licence fee and there was general support for all other elements of the UCL. Number fee was only a component among many in the UCL package.

40. While appreciating the difficulty of securing the consensus of all parties concerned, Ms Emily LAU opined that the Administration should seek to address the industry's concerns and balance the interests of the industry and the benefits to consumers.

41. Mr Albert CHAN noted that the legislative timetable was tight and asked about the reasons for such an urgency in completing the legislative process within the current legislative session.

42. In response, DG of T reiterated that as FMC was an imminent reality and the UCL would be used as the licensing vehicle for BWA services, there was a genuine and urgent need to create a unified carrier licensing regime to enable the operation of full range of fixed, mobile and converged services under a single harmonized licensing regime so to tie in with the auction of BWA spectrum in the fourth quarter of 2008. Moreover, with the impending expiry of the four fixed carrier licences in 2010, the details of the new UCL had to be finalized as soon as practicable to allow network operators sufficient time to develop their business plan. DG of T advised that Hong Kong was already behind other jurisdictions such as the UK and Singapore in the roll out of BWA services. To defer the relevant legislative amendments until the next legislative session would delay the BWA auction which in turn would hold up the introduction of new technologies, such as WIMAX, at the expense of consumers. SCED reiterated that it was in the public interest to proceed with the legislation for the creation of the UCL as soon as practicable in order that the new UCL regime could be implemented on 1 August 2008. He urged for members' support of the proposed legislative amendments for the creation of the new UCL and said that while suggestions and views from members were welcome, there was no strong grounds to revise the legislative timetable.

43. Mr Albert CHAN did not subscribe to the Administration's views and proposed to move a motion objecting to the Administration's proposals. As it was already past 6:30 pm which was the official ending time of the meeting, the Chairman ruled that the Panel would not deal with Mr CHAN's proposal to move a motion. Mr Albert CHAN expressed strong dissatisfaction with the way the Chairman had handled the matter.

Summing up

44. The Chairman noted the two customer organizations, namely the Consumer Council and the Hong Kong Telecommunications User Group representing the consumers and business users, both supported the UCL and the proposal of a number fee as a means to encourage better utilization of the number resources. He said that in the interest of the public and to protect consumer rights, he was supportive of an early introduction of the UCL regime. Mr Albert CHAN opposed the legislative proposals and strongly objected to rushing through the legislative amendments before the close of the current legislative session. Ms Emily LAU reiterated her concern about the divergent views among industry players and expressed reservations over the tight timeframe of the negative vetting process. Mr SIN Chung-kai said that while he supported the policy of an early auction of BWA spectrum, it was equally important to ensure that the UCL regime and the related licensing conditions and arrangements were sound and fair. The Chairman summed up that he supported the Administration's proposal. Mr Albert CHAN was strongly against the proposal. Ms Emily LAU and Mr SIN Chung-kai had reservations on the proposal.

VII. Any other business

45. There being no other business, the meeting ended at 6:35 pm.