

# 立法會 *Legislative Council*

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## **Bills Committee on Communications Authority Bill**

### **Background brief**

#### **Purpose**

This paper provides a summary of views and concerns expressed by the Panel on Information Technology and Broadcasting (the Panel) on the Administration's proposal to establish a unified regulatory body, namely the Communications Authority (CA), to cover the electronic communications sector.

#### **Background**

2. Under the existing regulatory regime, the Broadcasting Authority<sup>1</sup> (BA) is responsible for the regulation of television and sound broadcasting services in accordance with the Broadcasting Ordinance (Cap. 562) (BO) and Part IIIA of the Telecommunications Ordinance (Cap. 106) (TO) respectively. The Telecommunications Authority (TA) is responsible for the regulation of the telecommunications sector and the technical standards for broadcasting services. Since the establishment of the Office of the Telecommunications Authority<sup>2</sup> (OFTA) in 1993, the Director-General of Telecommunications, who heads OFTA, has been appointed as the TA under section 5 of the TO.

3. Rapid advancement in technology is blurring the traditional boundaries between telecommunications and broadcasting, leading to convergence of the two markets. Hong Kong needs to restructure its regulatory institutional arrangements and review the overall regulatory regime and legislation.

4. On 3 March 2006, the Administration published a consultation paper to seek public views on its proposal to merge the BA and the TA into a unified regulator (i.e. CA) for the efficient, effective and coordinated regulation of a converging electronic communications sector. The Administration proposed a

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<sup>1</sup> The Broadcasting Authority is a statutory body established under the Broadcasting Authority Ordinance (Cap.391).

<sup>2</sup> The Office of the Telecommunications Authority is operating under the Trading Funds Ordinance (Cap. 430).

two-staged approach -

- (a) upon its establishment, the CA would continue to enforce the existing provisions of the BO and the TO and administer all matters currently under the purview of the BA and the TA; and
- (b) the CA would be tasked to review and rationalize the BO and the TO to ensure the consistent and effective regulation of the broadcasting and telecommunications sectors.

5. According to the Administration, there was widespread and overwhelming support for the proposal of establishing the CA after the consultation. The Administration subsequently introduced the Communications Authority Bill (the Bill) into the Legislative Council on 30 June 2010.

### **The Bill**

6. The Bill seeks to:

- (a) establish the CA;
- (b) transfer the functions of the BA and the TA to the CA;
- (c) dissolve the BA; and
- (d) provide for incidental and connected matters.

### **Discussion by the Panel on Information Technology and Broadcasting**

7. At the Panel meeting held on 11 January 2010, the Administration briefed members on the proposed establishment of the CA. The Panel supported in principle the Administration's proposal.

8. Given the expanded remit of the CA with jurisdiction over the broadcasting and telecommunications sectors, some Panel members expressed concern that the power vested on the CA was too wide. They urged the Administration to consider enlarging the membership of the CA (the non-official members in particular) in order to cope with the increased workload following consolidation of responsibility over the entire electronic communications sector.

9. On the appointments to the CA, some Panel members stressed that these should be made in a fair, open and transparent manner, and care must be taken to ensure impartiality and guard against conflict of interests so as to enhance public confidence in the CA and maintain its credibility. The Board of the CA should possess the requisite expertise to understand and deal with the complicated issues in the communications sectors. To achieve operational synergy and to ensure

continuity and a smooth transition, some current serving members should be appointed to the CA.

10. Panel members also suggested that the Administration should find a more appropriate Chinese title for the CA that would fully reflect its responsibilities.

11. Some Panel members considered that the relevant ordinances should be reviewed and revamped prior to setting up the CA. The Administration advised that instead of embarking on a major fundamental and ambitious review of the ordinances with a view to consolidating them into a single piece of legislation with extensive rationalization, updating and amendment, the Administration considered it expedient to set up the CA as soon as possible through the structural merger of the TA and the BA. This would enable the CA to deal with market convergence that was already taking place, to provide input in the review of the provisions of the TO and the BO, and to have ownership of the strengthened regime that would eventually emerged.

### **Recent development**

12. At the House Committee meeting on 2 July 2010, a Bills Committee was formed to scrutinize the Bill.

### **Relevant papers**

Paper provided by the Administration for the Information Technology and Broadcasting Panel meeting on 11 January 2010

<http://www.legco.gov.hk/yr09-10/english/panels/itb/papers/itb0111cb1-821-6-e.pdf>

Background brief prepared by the Legislative Council Secretariat for the Information Technology and Broadcasting Panel meeting on 11 January 2010

<http://www.legco.gov.hk/yr09-10/english/panels/itb/papers/itb0111cb1-821-7-e.pdf>

Minutes of Information Technology and Broadcasting Panel meeting on 11 January 2010

<http://www.legco.gov.hk/yr09-10/english/panels/itb/minutes/itb20100111.pdf>

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