

立法會
Legislative Council

LC Paper No. CB(1)2856/09-10
(These minutes have been seen by
the Administration)

Ref : CB1/PL/ITB/1

Panel on Information Technology and Broadcasting

Minutes of meeting
held on Monday, 14 June 2010, at 2:30 pm
in the Chamber of the Legislative Council Building

- Members present** : Dr Hon Samson TAM Wai-ho, JP (Chairman)
Hon LEE Wing-tat (Deputy Chairman)
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon CHEUNG Man-kwong
Hon CHAN Kam-lam, SBS, JP
Hon LAU Kong-wah, JP
Hon Emily LAU Wai-hing, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon WONG Ting-kwong, BBS, JP
Hon Ronny TONG Ka-wah, SC
Hon Cyd HO Sau-lan
Hon IP Kwok-him, GBS, JP
Hon Mrs Regina IP LAU Suk-ye, GBS, JP
Hon WONG Yuk-man
- Member attending** : Hon Tanya CHAN
- Public officers attending** : Agenda item IV
Miss Elizabeth TSE, JP
Permanent Secretary for Commerce and Economic
Development (Communications and Technology)
Mr Alan SIU, JP
Deputy Secretary for Commerce and Economic
Development (Communications and Technology)

Miss Eliza LEE, JP
Director-General of Telecommunications

Mr HA Yung-kuen
Deputy Director-General of Telecommunications

Mr Benson CHENG
Legal Adviser 3
Office of the Telecommunications Authority

Agenda item V

Miss Elizabeth TSE, JP
Permanent Secretary for Commerce and Economic
Development (Communications and Technology)

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

Miss Eliza LEE, JP
Director-General of Telecommunications

Mr HA Yung-kuen
Deputy Director-General of Telecommunications

Mr Sanda CHEUK
Head, Regulatory 3
Office of the Telecommunications Authority

Agenda item VI

Mrs Rita LAU, JP
Secretary for Commerce and Economic Development

Miss Elizabeth TSE, JP
Permanent Secretary for Commerce and Economic
Development (Communications and Technology)

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

Mr Vincent LIU, JP
Commissioner for Television & Entertainment
Licensing

- Attendance by invitation** : Agenda item VI
The Broadcasting Authority Complaints Committee
Mr Adrian WONG, MH, JP
Chairman
- Clerk in attendance** : Ms YUE Tin-po
Chief Council Secretary (1)3
- Staff in attendance** : Mr Watson CHAN
Head (Research and Library)
Mr Bonny LOO
Assistant Legal Adviser 3
Mr Michael YU
Research Officer 7
Ms Annette LAM
Senior Council Secretary (1)3
Ms May LEUNG
Legislative Assistant (1)6

Action

- I. Confirmation of minutes of meeting**
(LC Paper No. CB(1)2177/09-10 -- Minutes of meeting held on 12 April 2010)
- The minutes of the meeting held on 12 April 2010 were confirmed.
- II. Information papers issued since last meeting**
(LC Paper Nos. CB(1)2034/09-10(01) and (02) -- Correspondence between the Legislative Council Secretariat and the Administration on the shareholding structure, management and operation of Asia Television Limited)
- LC Paper No. CB(1)2182/09-10(01) -- Submission on mobile phone Internet service from a member of the public dated 1 June 2010)

2. Members noted that the above papers had been issued for the Panel's information.

III. Date of next meeting and items for discussion

(LC Paper No. CB(1)2179/09-10(01) -- List of outstanding items for discussion

LC Paper No. CB(1)2179/09-10(02) -- List of follow-up actions)

3. Members noted that the next regular Panel meeting would be held on 12 July 2010 at 2:30 pm to discuss the following items:

- (a) Spectrum Utilization Fee;
- (b) Information security; and
- (c) Facilitating a digital economy, and promoting technological innovation, cooperation and trade.

(Post-meeting note: With the concurrence of the Panel Chairman, item (a) was replaced by "Mid-term review of the domestic free television programme service licences of Asia Television Limited and Television Broadcasts Limited" for the regular Panel meeting scheduled for 12 July 2010.)

IV. Progress report on the pilot run of Customer Complaint Settlement Scheme

(LC Paper No. CB(1)2179/09-10(03) -- Administration's paper on report on the Customer Complaint Settlement Scheme

LC Paper No. CB(1)2179/09-10(04) -- Paper on the Pilot Programme on Customer Complaint Settlement Scheme prepared by the Legislative Council Secretariat (updated background brief)

LC Paper No. CB(1)2239/09-10(01) -- Administration's paper on *(tabled at the meeting and subsequently issued via email on 17 June 2010)* report on the Customer Complaint Settlement Scheme (power-point presentation materials))

Briefing by the Administration

4. With the aid of power-point, Legal Adviser 3 of the Office of the Telecommunications Authority (OFTA) briefed members on the progress of the 18-month pilot programme for the Customer Complaint Settlement Scheme (CCSS) administered by OFTA, and the salient points in the consultation paper issued on 8 June 2010 to seek the views of the public and the industry on the possible long-term implementation of CCSS.

Discussion

The effectiveness of the Customer Complaint Settlement Scheme

5. Ms Emily LAU noted that a monthly quota of 85 cases (i.e. 1 020 cases per year) was proposed for the first year operation of the future CCSS. In view of the upsurge in the number of disputes between telecommunications service providers and consumers, and the substantial number of complaints received by OFTA against telecommunications services over the past three years (i.e. 4 629 in 2007, 4 317 in 2008 and 4 016 in 2009), she expressed concern whether the CCSS, being limited by an annual quota, could effectively and efficiently address the need for resolution.

6. Mr LEE Wing-tat opined that the pilot programme was a failure as only 18 cases were handled during the 18-month pilot run. He doubted whether the future CCSS could successfully resolve consumer complaints and contractual disputes. He also criticized OFTA for neglecting its responsibility in regulating the telecommunications industry, and expressed concern that consumer complaints and cases involving misleading and unscrupulous sale practices would be passed onto the CCSS instead of settlement.

7. The Permanent Secretary for Commerce and Economic Development (Communications and Technology) (PSCED(CT)) and the Director-General of Telecommunications (DG of T) advised that the CCSS was to provide an alternative dispute resolution scheme to resolve contractual disputes between operators and their customers, offering the parties concerned a quick and economical way to resolve disputes outside the judicial system without having to resort to the court and obviate the need for expensive legal costs. Consumers were free to seek separate legal redress if they were dissatisfied with the result of the adjudication.

8. PSCED(CT) further advised that in addition to the CCSS, the Telecommunications Authority (TA) as a regulator of the telecommunications industry had implemented a number of measures to safeguard the rights and interests of consumers. These included enhanced consumer education and issuing codes of practices and guidelines on sale practices so that consumer interests would be better protected. She highlighted that the Administration would continue to monitor the market situation and consider other consumer protection measures such as invoking the condition of the relevant licences to mandate service operators'

participation in the CCSS.

9. PSCED(CT) and DG of T assured members that the Telecommunications Ordinance (TO) (Cap. 106) offered protection to consumers in respect of the services provided by licensed telecommunications operators. Section 7M of the TO prohibited telecommunications service providers from engaging in conduct that was misleading or deceptive in promoting, marketing or advertising their service. The TA had the statutory responsibility to investigate complaints and impose sanctions for breaches. Of the 12 cases investigated during the period from January to May 2010, four operators who were found to be at fault were fined a sum totaling \$460,000.

10. On members' concern about the persistently high number of telecommunications services related complaints, DG of T said that OFTA received a total of 4 016 consumer complaints in 2009. About 20% to 25% of the complaints were billing disputes and about 25% were related to quality of services. OFTA would refer the complaints received to the concerned operators with a view to ensuring that they might reach a settlement with the complainants. The experience of OFTA indicated that about half of the complaints referred in such a manner could be resolved by the parties themselves.

11. As regards the small number of cases handled under the pilot programme, DG of T explained that the purpose of the pilot programme was to test the practicality and efficacy of a CCSS under local Hong Kong conditions. The pilot programme was therefore purposely operated on a limited scale. Cases involving different communications services that had come to a deadlock and could not be resolved between the customers and the operators through negotiations were referred to the pilot programme for mediation and adjudication by participating operators with the consent of the customers concerned. She added that the feedback from the participating operators and customers was generally positive. Of the three operators participating in the pilot programme, two had indicated that they would join the future CCSS. Customers participating in the pilot programme also welcomed the mediation and adjudication services offered.

12. Noting that only three operators had participated in the pilot programme, and that such a low rate of participation was not conducive to the development of an industry-wide alternative dispute resolution scheme for telecommunications services, the Chairman enquired about the reason for the low participation. DG of T said that the pilot programme was a new initiative without precedent and it was natural that operators would adopt a wait-and-see attitude. The pilot programme was on a whole well received by the participating operators. Two of the three participating operators had indicated that they would refer cases to the CCSS in future.

13. The Chairman said that the persistently high number of telecommunications services related consumer complaints and contractual disputes was unacceptable. He called for concrete measures to improve the situation. He also enquired about the number and percentage of telecommunications service related complaints

received by OFTA against the three telecommunications service operators that participated in the CCSS pilot programme in each of the past three years (i.e. 2007-2009), the market share of the said three operators, and the number of cases/complaints on billing disputes that eventually had to seek legal redress including the Small Claims Tribunal. The Administration undertook to provide the information as far as practicable.

(Post-meeting note: The information provided by the Administration was issued to members vide LC Paper No. CB(1)2798/09-10(01) on 1 September 2010.)

Proposed fee level of CCSS

14. Ms Emily LAU referred to the proposed level of fees payable by the customer for taking part in the CCSS, and enquired about the average amount involved in billing disputes concerning telecommunications services. Mr LEE Wing-tat questioned whether it was fair that consumers, especially victims of undesirable sale practices, had to pay for mediation and adjudication services.

15. In response, DG of T said that the average disputed amount involved in the complaints was in the region of a few thousands. The jurisdiction limit of awarding compensation or refund, or waiving charges, was \$10,000. The limit was set by reference to the average monthly fees for most communications services on a two-year contract. On the proposed fee payable by customers, PSCED(CT) and DG of T advised that the fee was a token sum proposed on the basis of cost recovery with reference to overseas practices and similar schemes in the local insurance and financial sectors. While the funding for the long term CCSS would be primarily borne by the industry, it was considered reasonable for customers to pay a reasonable amount of fee for the mediation and adjudication services as the CCSS was for the benefit of both the industry and customers. Moreover, fee payment by the customer would also help minimize possible abuse of the CCSS. According to a follow-up survey, most customers participating in the pilot programme responded positively to the payment of a fee for the services while a few respondents considered that the operators should shoulder the fee.

Summing up

16. The Chairman urged the Administration to take note of members' concern and brief the Panel on the proposed way forward following the end of the three month consultation on the future implementation of the CCSS.

V. Review of Local Access Charge

(LC Paper No. CB(1)2179/09-10(05) -- Administration's paper on review of Local Access Charge

LC Paper No. CB(1)2179/09-10(06) -- Consultation paper on review of
(English version only) Local Access Charge issued by the
Telecommunications Authority on
31 December 2009

LC Paper No. CB(1)2239/09-10(02) -- Administration's paper on
(*tabled at the meeting and* review of Local Access Charge
subsequently issued via email on (power-point presentation
17 June 2010) materials))

Presentation by the Administration

17. With the aid of power-point, Head, Regulatory 3 of the Office of the Telecommunications Authority (H(R)3/OFTA) briefed members on the outcome of the three-month public consultation conducted by the Telecommunications Authority (TA) on the review of the local access charge (LAC) and the way forward. Members noted that LAC, introduced in 1999, referred to an interconnection charge payable by the external telecommunications service (ETS) operators to the local network operators, including local fixed network operators (FNOs) and mobile network operators (MNOs), for conveyance of ETS traffic to and from end users of the local network operators. H(R)3/OFTA said that the industry had expressed diverse views on the four regulatory options identified in the consultation document. OFTA was open to any of the four options reflecting different degree of regulation/deregulation and would carefully examine the views and comments received in mapping out the way forward.

Discussion

18. Mr LEE Wing-tat said that it was unlikely and would certainly be difficult for the different market players (the ETS operators, MNOs and FNOs) who had different interests and commercial considerations to agree on a commonly accepted model of settlement of the ETS-related interconnection charge and the level of LAC. While he did not object to the Administration consulting the industry, the Administration should, on the basis of objective parameters, determine and provide guidance on the level of LAC.

19. Mr Ronny TONG said that the Administration should take the lead in setting out clearly the primary considerations and guiding principles for the consultation and the review. He considered that the review should aim at setting up a fair, open and transparent regulatory regime that was conducive to fair market competition in the interest of consumers. He questioned as to why the public and consumers who were important stakeholders were not consulted in the review. He opined that consumer representatives and consumer concern groups should be consulted in the next round of consultation.

20. Mr CHAN Kam-lam said that instead of simply setting out the four options for consultation, the Administration should form a preliminary view for more in-depth discussion and consideration by the industry, market players and

consumers. While consumer benefits should be safeguarded, the rightful interests of the operators should also be taken into consideration with a view to drawing up a fair LAC regime that would be conducive to fair competition, promote sustainable development of the industry, and protect consumer interests. He considered option 3 worthy of further consideration as ETS operators would be obliged to pay LAC to both FNOs and MNOs while the level of LAC would be subject to commercial agreements among connecting parties with reference to BA's regulatory guidance on interconnection charge.

21. The Chairman said that a comprehensive review of the existing LAC regime was necessary. He opined that the current asymmetric regime between FNOs and MNOs where ETS operators were obliged to pay LAC to FNOs but not to MNOs might not be conducive to the fixed-mobile convergence environment where the distinction between fixed and mobile networks and services was becoming blurred. He doubted the practicality of complete deregulation of the LAC regime as proposed in option 4, and was concerned whether the withdrawal of regulation which might create a high level of uncertainty over the interconnection arrangements for the ETS would adversely affect the operators who were mostly small and medium sized enterprises (SMEs). Sharing a similar concern, Ms Emily LAU also raised concern about the possible impact on consumers and questioned whether consumer interests would be protected when regulation was completely withdrawn.

22. In response, PSCED(CT) and the Director-General of Telecommunications (DG of T) said that the prime objective of the review of the LAC was to chart out a fair and updated regulatory regime conducive to market and technology development. In formulating a decision on the option to pursue, the TA would consider, among other things, the ongoing developments including fixed-mobile convergence and the advent of new technologies, the commitments to the market-driven policy, the potential impact on consumers and the industry, the practicality of the transitional and implementation arrangements, as well as the views of the stakeholders and Panel members. At this stage, the TA was open to any of the four options identified in the consultation paper or other options that might be proposed by the industry. The TA would carefully consider the views of the respondents in mapping out the way forward. When the TA had come to a preliminary conclusion that a specific option should be pursued, the TA would propose the detailed implementation arrangements and where necessary, carry out a second round of consultation to solicit views of the operators and the public. The Administration would update the Panel on the way forward in due course.

23. Regarding members' concern about consumer protection and safeguarding public interests, PSCED(CT) assured members that the promotion of consumer welfare, among other factors, would be a major consideration in the review. All the related stakeholders including various industry players and the public would be consulted in the second round of consultation. The Deputy Director-General of Telecommunications added that the consultation document published in December 2009 was posted on OFTA website for public comment.

24. The Chairman urged the Administration to take note of the views and concerns expressed by members, and update the Panel on the way forward in due course.

VI. Sponsored programme and advertising of a political nature on radio

(LC Paper No. CB(1)2179/09-10(07) -- Administration's paper on advertisement of a political nature and sponsored programme on radio

LC Paper No. IN18/09-10 -- Information note on regulation of advertising and sponsorship for commercial radio broadcasting in selected places prepared by the Research and Library Services Division of the Legislative Council Secretariat

LC Paper No. CB(1)2179/09-10(08) -- Letter to the Broadcasting Authority dated 5 May 2010 issued by the Legislative Council Secretariat

LC Paper No. CB(1)2210/09-10(01) -- Reply from the Broadcasting Authority to the Legislative Council Secretariat dated 8 June 2010)

Opening remarks

25. The Chairman advised that the purview of the Panel was to monitor and examine Government policies and issues of public concern relating to broadcasting services, information technology, telecommunications, film services and creative industry. It had no mandate to handle individual complaints that came under the purview of the Broadcasting Authority (BA). He called on members to focus the discussion on policy matter without making reference to individual cases.

Briefing by the Administration

26. At the invitation of the Chairman, the Secretary for Commerce and Economic Development (SCED) briefed members on the current regulatory regime (the relevant provisions under the Radio Code of Practice on Advertising Standards and the Radio Code of Practice on Programme Standards) governing advertisement of a political nature and sponsorship of programmes on radio. She said that the two codes issued by the BA which were referenced on overseas practice had been functioning smoothly. There was currently no provision under the relevant legislation, codes of practice or licence conditions requiring sound broadcasting

licensees to seek the approval of the BA for sponsorship of radio programmes. For advertising, paragraph 28 of the Radio Code of Practice on Advertising Standards stipulated that "no advertisement of a political nature shall be broadcast except with the prior approval of the BA". The policy consideration of the provision was to avoid the more affluent organizations or individuals from having undue advantage in promoting their political positions through the radio.

Discussion

The regulation of sponsored programme and advertising of a political nature on radio

27. Mr LEE Wing-tat and Ms Emily LAU opined that the current broadcasting regulatory regime, which allowed only the Government to promote its policies on radio and electronic media while no other advertisement of a political nature could be broadcast except with the prior approval of the BA, was outdated, unfair and should be reviewed. Referring to the announcements of public interests (APIs) "Act Now" on the Government's constitutional reform package broadcast frequently on radio and television, they criticized the double standard of the current regulatory regime. They considered it unfair that the Government could have free use of the frequency spectrum which was a scarce public resource to widely promote the 2012 constitutional package which was not yet passed by the Legislative Council, while community and political groups did not have any access to airtime to express opposing views, and were not allowed to sponsor any announcement or advertising considered to be of a political nature.

28. Sharing a similar view, Mr CHEUNG Man-kwong criticized the double standard of the current regulatory regime. While the Government had free access to the electronic media to publicize and widely promote Government policies, independent community groups and political parties were prohibited from sponsoring advertisements to express their views.

29. Mrs Regina IP noted that it was common practice in overseas jurisdictions, such as the United States (US) and Australia for political parties to commission advertising of a political nature. She said that in view of the development of political parties and the democratic process in Hong Kong over the years, the ceiling on election campaign, and the increasing popularity of the Internet, the current regulatory regime which prohibited political advertising was out-dated and should be reviewed. She urged the Administration to consider liberalizing the regulation of political advertising.

30. Mr WONG Yuk-man strongly criticized the Government for not reviewing the outdated legislation to keep up with the changes of time. He said that the regulation of political advertising should be liberalized to allow political parties and candidates contesting the election to state their political views and promote their political positions on electronic media.

31. In response, SCED said that APIs on Government policies and important matters of public concern were broadcast on radio and television to enhance public understanding of public policies and gather public opinion. There were time restrictions on the broadcast of APIs on the electronic media, and it had been a long-established practice that each radio channel of RTHK broadcast two APIs per hour. The Information Services Department was responsible for providing the APIs for broadcast, and for scheduling and making arrangements for the API broadcasts. The scheduling and frequency of broadcasts would depend on factors such as the timeliness and the importance of the matter concerned.

32. On the regulation of political advertising, SCED said that overseas jurisdictions such as the United Kingdom, Australia and the US had instituted different broadcasting rules for advertising/sponsorship during the election period. Although paid political advertising was regulated in Hong Kong, broadcasters were required to comply with rules to ensure that political parties and political candidates contesting the election had equal opportunities to access the broadcast media to state their political views and promote their political positions during the election period. SCED highlighted that any changes to the current regulatory regime would need a comprehensive review, wide consultation and careful consideration. The BA reviewed its codes of practices as an ongoing process to align with prevailing public standard and expectations.

33. Mr CHEUNG Man-kwong criticized the inconsistency of the radio code of practice which only regulated political advertising while there was no specific provision governing radio programme sponsorship of a political nature by a political party. Such inconsistency would create loophole whereby more affluent organizations or individuals would have an undue advantage in promoting their political positions through sponsored radio programme, thus monopolizing the media. Mr Adrian WONG, Chairman of the Complaints Committee and SCED, replied that if the broadcast materials of a sponsored radio and television programme constituted political advertising, the said programme would also be regulated by the relevant codes of practice.

Freedom of expression and editorial independence

34. Mr Ronny TONG queried whether the Government and the pro-Government political parties had the special privilege of being exempt from the relevant codes of practice. He was of the view that frequency spectrum which was a scarce public resource should not be monopolized by the Government. Different groups in the community should also have the equal rights to access the broadcast media and have airtime, be it free or paid, to express their views.

35. Ms Emily LAU said that her application to sponsor a radio advertisement had been refused by the broadcasters concerned. She called on the Government to open up frequency spectrum and review the relevant legislation to provide both free and paid channels for community and political groups to express their views. Miss Tanya CHAN said that no broadcaster was willing to air a TV segment prepared by her and Hon Allan LEONG. She was of the view that the obligation

to broadcast Government APIs had undermined the editorial independence of the electronic media. In this connection, Mrs Regina IP said that her application to publicize some liberal study courses had been refused by a bus company.

36. Ms Cyd HO criticized the Government for monopolizing the electronic media and bombarding the public with incessant announcements on the 2012 constitutional reform package. She queried whether the APIs on the reform package amounted to political advertising as the reform package was not yet passed by LegCo and therefore was not established Government policy.

37. Mr LAU Kong-wah disagreed that only policies that were approved by LegCo were established Government policies. Mr IP Kwok-him opined that it was proper for the Government to publicize and promote Government policies on the electronic media and disagreed that there was no platforms for the public to express their views. Mr LAU and Mr IP said that Hong Kong was a free and open society and channels were available for free expression of diverse views as evidenced by criticisms against the Government in radio phone-in programmes. In fact, quite a number of the members of certain political parties had hosted, co-hosted or appeared as guests in TV and radio programmes, and some programme hosts had strongly criticized certain political parties in their programmes.

38. Mr LEE Wing-tat said that RTHK and media organizations, including TV broadcasters and sound broadcasting licensees, should have the freedom to invite any individual or member of community and political groups as guests or co-hosts in their programmes.

39. In response, SCED said that there was no pre-censorship in Hong Kong's broadcasting industry. It was up to the licensed broadcaster to make its own independent decision on whether a certain sponsored programme, announcement or advertisement was of a political nature and what steps it would take to comply with the provisions of the relevant legislation, codes of practices and/or licence conditions. There was no provision in the codes of practice and the relevant ordinances prohibiting the participation of certain individuals or political parties in any radio or TV programmes. She maintained that the 2012 constitutional reform package which was already approved by the Executive Council was established Government policy. To tie in with the release of the proposed package, the Government had launched a publicity exercise to appeal to the public for their support of the package. The Government's publicity on the subject was a campaign to promote a government policy and was entirely different from political advertising. The APIs on the political reform package which sought to promote public understanding of the Government policy was in keeping with the promotion of public interest and did not constitute political advertising, nor did it contravene the codes of practice.

40. SCED further said that the regulation of paid political advertising would not inhibit freedom of expression. She highlighted that Hong Kong was a free, open and inclusive society, and the Government was committed to upholding

editorial independence and freedom of expression. Channels were available on electronic media and radio, such as public affairs programmes and phone-in sessions, for citizens and/or different groups in the community to express their views on current affairs and matters of public concern. Rules were also prescribed to ensure that political parties and political candidates contesting in elections had equal opportunities to state their political views and promote their political positions on the electronic media during election period. Mr Adrian WONG added that the BA would uphold freedom of expression and would not interfere with editorial independence of any broadcasters.

41. In response to Mr LAU Kong-wah's enquiry, SCED said that "Hong Kong Letter" and "Letter to Hong Kong" were radio programmes for different background to speak on issues of their concern, so that the community would hear from them directly. Guests who appeared on these two programmes represented a wide spectrum from the community, including Government officials, the Executive Council and LegCo Members, head of different public and community organizations, academics, etc. PSCED(CT) said that in 2009, Government officials appeared 16 times in the said two programmes, LegCo members 46 times, other individuals 40 times. In 2010, Government officials including the CE had appeared 6 times in the two programmes while LegCo Members had been invited as guests 20 times and other individuals 18 times. The Administration was requested to provide detailed breakdown on the number of episodes in which LegCo Members of different political parties had appeared as guests in the said two radio programmes in the past three years (i.e. 2007 to 2009).

(Post-meeting note: The information provided by the Administration was issued to members vide LC Paper No. CB(1)2666/09-10(01) on 29 July 2010.)

Definition of political advertising

42. Mr Ronny TONG questioned what constituted "political advertising" and by whom was the term defined.

43. Mrs Regina IP opined that the Chinese translation of "a political nature" ("政治色彩") was in-appropriate. She urged the Administration to define "political advertising" and what constituted "political advertising" with reference to the agreed definition in western countries, and making a distinction between political advertising and political broadcasting which were specifically related to political parties and election.

44. Miss Tanya CHAN observed that "advertising of a political nature" was not defined in the code of practice. Neither could the definition of API be found in the Government website. She sought clarification on the differences between advertising and announcement.

45. Mr IP Kwok-him and Mr CHAN Kam-lam urged the Administration and the BA to clearly define "political advertising" in the light of democratic development and the formation of political parties in Hong Kong over the years. Mr CHAN Kam-lam said that programmes on issues of public concern and livelihood sponsored by a political party should not be considered as political and prohibited. He suggested that related broadcasting policies on fair and balanced reporting by mass media in public affairs programme and commentary should also be examined.

46. In response, SCED said that advertising referred to paid advertisement and was entirely different from announcement on issues of public concern and Government policies made through APIs. She said that broadcasting Government APIs and editorial independence were separate issues. As part of their public responsibility, domestic free TV broadcasters and sound broadcasting licensees were required under their licence conditions to broadcast Government APIs. Mr Adrian WONG undertook to convey members' concern about the definition of "political advertising" to the BA for consideration. He highlighted that although "advertising of a political nature" was not defined in the codes of practice, the Complaints Committee of the BA would handle the complaints impartially in accordance with the established procedures and would make a determination on the basis of the content of the broadcast materials with reference to the common law and the general meaning of political advertising in the dictionary.

The processing of complaints

47. Mr LEE Wing-tat said that the recent sponsorship of a radio programme by a certain political party and a paid radio announcement appealing to the audience to join the march against the proposal on constitutional reform had raised much public concern on the regulation of sponsorship of radio programmes and advertising. He urged the BA to expedite the investigation into the complaints and publish the outcome of the investigation as soon as practicable to allay public concern.

48. In response to Mr WONG Yuk-man's enquiry about the processing of public complaints against the sponsorship of a series of radio programmes by a certain political party, SCED and Mr Adrian WONG said that complaints alleging that certain programme/announcement might constitute advertisements of a political nature were being investigated by the BA in accordance with the provisions stipulated in the Broadcasting Authority Ordinance (Cap. 391) (BAO) and established procedures. The outcome of the investigation would be published as soon as practicable. Mr Adrian WONG highlighted that the BA would not be biased against any groups including political groups.

49. Mr LEE Wing-tat enquired whether the BA would handle complaints from those whose broadcast materials had been refused by licensed broadcasters on the ground of political advertising. Mr Adrian WONG replied that the BA would normally investigate into complaints lodged against aired programmes.

VII. Any other business

50. There being no other business, the meeting ended at 5:10 pm.

Council Business Division 1
Legislative Council Secretariat
15 September 2010