

EXTRACT

LC Paper No. CB(1)2007/09-10(01)

立法會

Legislative Council

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

Ref : CB1/PL/ITB/1

Panel on Information Technology and Broadcasting

**Minutes of meeting
held on Monday, 12 April 2010, at 2:30 pm
in Conference Room A 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 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

Member attending : Dr Hon Margaret NG

Members absent : Hon CHAN Kam-lam, SBS, JP
Hon Mrs Regina IP LAU Suk-ye, GBS, JP

Public officers attending : Agenda item IV
Mr Gregory SO, JP
Under Secretary for Commerce and Economic
Development

Mr Duncan PESCOD, JP
Permanent Secretary for Commerce and Economic
Development (Communications and Technology)

Mr Jeremy GODFREY
Government Chief Information Officer

Mr Bassanio SO
Deputy Government Chief Information Officer (Policy
and Customer Service)

Mr Tony WONG
Chief Systems Manager (Digital Inclusion)
Office of the Government Chief Information Officer

Agenda item V

Mrs Rita LAU, JP
Secretary for Commerce and Economic Development

Mr Duncan PESCOD, 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 Aaron LIU
Principal Assistant Secretary for Commerce and
Economic Development (Communications and
Technology)A

Attendance by invitation : Agenda item V
Radio Television Hong Kong

Mr Franklin WONG
Director of Broadcasting

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

Staff in attendance : Mr Bonny LOO
Assistant Legal Adviser 3

Ms Annette LAM
Senior Council Secretary (1)3

Ms May LEUNG
Legislative Assistant (1)6

Action

V. Consultation report on the future operation of the Radio Television Hong Kong (RTHK) and the new RTHK Charter

(LC Paper No. CB(1)1520/09-10(05) -- Administration's paper on consultation report on the future operation of the Radio Television Hong Kong (RTHK) and the new RTHK Charter

LC Paper No. CB(1)1520/09-10(06) -- Paper on public service broadcasting and the future of Radio Television Hong Kong prepared by the Legislative Council Secretariat (updated background brief)

LC Paper No. CB(1)1563/09-10 -- Administration's paper on consultation report on the future operation of the Radio Television Hong Kong (RTHK) and the new RTHK Charter (power-point presentation materials)
(tabled at the meeting and subsequently issued via email on 14 April 2010)

LC Paper No. CB(1)1587/09-10(01) -- Submission from RTHK Programme Staff Union dated 9 April 2010 (Chinese version only)
(tabled at the meeting and subsequently issued via email on 14 April 2010)

LC Paper No. CB(1)1587/09-10(02) -- Submission from SaveRTHK Campaign (Chinese version only)
(tabled at the meeting and subsequently issued via email on 14 April 2010)

Presentation by the Administration

The Secretary for Commerce and Economic Development (SCED) said that comments received during the public consultation exercise were generally supportive of the proposals contained in the consultation paper. There was also clear public support, including from Radio Television Hong Kong (RTHK) staff, for the proposed Charter to further enhance the editorial independence of the new RTHK. The draft Charter, to be signed by the Chief Secretary for Administration,

the Chairman of the Broadcasting Authority (BA), and the Director of Broadcasting (D of B), was drawn up together with the RTHK management and would be presented to RTHK staff for comments.

2. The Permanent Secretary for Commerce and Economic Development (Communications and Technology) (PSCED(CT)) said that RTHK staff had been briefed on the contents of the draft Charter and their views would be taken into account in finalizing the Charter. RTHK management would be involved in the task group working on the future directions of RTHK in respect of the introduction of digital services, the expansion of its radio and television capacity, and the re-provisioning of the new headquarters. RTHK staff would be informed of the latest developments.

3. The Deputy Secretary for Commerce and Economic Development (Communications and Technology) (DSCED(CT)) gave a power-point presentation on the outcome of the consultation exercise, the contents of the draft Charter, and the way forward.

Discussion

Public consultation

4. Ms Emily LAU doubted the credibility of the findings of the Government public consultation on the future operation of the RTHK as less than 10% of the respondents of the telephone public opinion survey had read the Government consultation document released in October 2009. She also queried the objectivity of the public opinion survey, saying that some of the questions asked were leading questions that distorted the true public opinion. Pointing out that none of the public service broadcasters in overseas jurisdictions, except North Korea, was a Government department, she said that the Government's decision for RTHK to remain as a Government department while performing the role of a public service broadcaster was contrary to the recommendation of the Committee on the Review of Public Service Broadcasting (the Review Committee) and also went against the general public expectation for an independent public service broadcaster that was free from any Government, commercial and political interferences. She strongly urged the Government to conduct another consultation exercise.

5. SCED replied that the Government had announced in September 2009 its decision to retain RTHK as a Government department and to task it to take up the role of a public service broadcaster of Hong Kong. Following that, a three-month comprehensive public engagement exercise, including briefing for the Panel, organizing district forums and attending focus group discussions, etc had been conducted since October 2009. The focus of the public consultation was to seek public views on how the role, functions, and corporate governance of RTHK and its public accountability should be enhanced to achieve its mission as a public service broadcaster. It was against such a background that a public opinion survey was commissioned and the questions asked in the survey were phrased in that context. She further highlighted that the draft Charter which governed the operation of

RTHK and set out the relationship between RTHK, Government and the BA was drawn up based on the existing Framework Agreement between CEDB and RTHK as well as the Memorandum of Understanding between CEDB, RTHK and the BA. It was prepared on the basis of proposals set out in the consultation paper and had already taken into account the views received in the public consultation.

6. Dr Margaret NG criticized the survey as a waste of public money, saying that the opinion survey lacked credibility and that the questions were loaded. She enquired about the Administration's role and involvement in the survey. She expressed disappointment that while "promoting education and learning" and "fostering social harmony" were listed amongst the public purposes of public service broadcasting, "monitoring Government" was not made a public mission of RTHK.

7. SCED advised that the Government-commissioned survey was conducted by an independent company, Consumer Research HK Ltd. While the Administration had provided the necessary background information to the research company, the design of the survey, questionnaire and the methodology were determined by the company. She said that RTHK, as a responsible media organization, had all along been and would continue to monitor the performance of the Government.

Corporate governance and editorial independence of RTHK

8. Referring to the findings of the survey conducted by the RTHK Programme Staff Union last year which showed that close to 80% of the staff was against the setting up of a Board of Advisors (the Board) of which 36.4% strongly objected to the Board, Ms Emily LAU criticized the Government for pressing ahead with its proposal despite the fear expressed by RTHK staff that the Board might become a super-power interfering with RTHK's editorial and operational independence. She said that none of the advisory boards in overseas jurisdictions was appointed by the Chief Executive. Dr Margaret NG said that the appointment of board members solely by the CE would not be able to win the trust of the public as it lacked transparency and credibility.

9. Mr Ronny TONG cast doubt on the need for setting up the Board and questioned the rationale for empowering the Board to advise the D of B on all matters pertaining to editorial principles, programming standards, and quality of RTHK programming, given that RTHK had been operating well and even the Government had stated that RTHK had maintained its credibility for decades. To allay the fear of RTHK staff and to address public concern that the CE-appointed Board would be used as a political tool to interfere with RTHK's editorial independence, Mr TONG said that the reference to such responsibility and power as contained in paragraph 5.1(i) of the draft Charter should be removed. Noting that other than D of B, there were no RTHK staff representatives on the Board, he questioned whether RTHK could effectively maintain its editorial independence under such an arrangement.

10. Ms Cyd HO criticized the Government for turning a blind eye to RTHK staff's concerns and the public's objection to the Board. Noting that RTHK would remain as a Government department under the policy purview and housekeeping oversight of the CEDB, she questioned the need for having a separate Board to advise D of B on editorial matters and monitor the performance of RTHK. Ms HO also expressed concern over the wide power of the Board, saying that the Board's function overlapped with that of the existing advisory panel and was likely to create unnecessary bureaucratic layers in the governance of RTHK. She was gravely concerned that the adoption of the Charter would jeopardize editorial independence of RTHK, resulting in pre-censorship and turned RTHK into a Government mouth piece. She said that the D of B had no right to sign the Charter on behalf of RTHK and Hong Kong people. She also queried as to why RTHK, in fulfilling the public mission of sustaining citizenship and civil society, was required to collaborate with national broadcasters in fostering a national identity.

11. SCED assured members that the Government attached great importance to editorial independence of RTHK, which had all along been the core value and guiding principle for RTHK programmes. She said that the appointments to advisory boards in other jurisdictions were made by the Government and was no different from a Board appointed by the CE. She highlighted that the Board was only advisory in nature. It would not have executive power and would not be involved in the day-to-day operation or staffing matters of RTHK. She further said that the responsibility of the Board to advise on editorial principles should not be taken as a right to interfere with editorial independence or editorial decisions. While the Board was responsible for advising on the editorial principles to be adopted by RTHK, which included upholding the highest professional standards of journalism, and providing accurate, impartial, balanced and objective views in public affairs and general programming, the Board would not advise on or interfere with individual programmes. The ultimate editorial responsibility rest with the D of B. She said that RTHK, with its good brand name, had been consistently ranked in public surveys as the most credible electronic media in Hong Kong. RTHK had all along enjoyed editorial freedom as evidenced by its criticisms of the Government on numerous occasions in the past. The RTHK's status as a Government department would not prevent it from performing the role of a public service broadcaster and in fulfilling the public purposes of PSB as recommended by the Committee on Review of Public Service Broadcasting chaired by Mr Raymond WONG.

12. SCED further said that RTHK as a government department and a public service broadcaster, should be accountable to the public and be subject to public scrutiny just as other public bodies and government agencies were. The broad-based Board with its wide representation from the public could serve as a mirror enabling the public to monitor the impartiality and professional standards of RTHK programmes. As regards the concern about the lack of RTHK staff representatives on the Board, SCED said that appointing staff representatives to the Board was tantamount to inviting the Board to involve in daily operations and staffing matters, which was contrary to the original intention. Moreover, internal

staff consultative mechanism and established channels were in place for RTHK staff and management to communicate on matters of staff interests.

13. Mr LEE Wing-tat doubted whether the new RTHK could be editorially independent and effectively perform the function of an independent public service broadcaster under the current proposed governance structure and the direction of the proposed Advisory Board. He also doubted whether the Board would refrain from interfering with the content of individual programmes. Given that the D of B was required to give due weight and consideration to all advice provided by the Board, he considered it difficult for D of B, in his capacity as a civil servant, to disregard the advice of the Board or refuse the Board's discussion on individual programme. He feared that to avoid pressure from the Board and having to explain to the Board, RTHK programme staff and editors would be inclined to stay away from sensitive issues, thereby resulting in self-censorship.

14. SCED reiterated that RTHK had all along enjoyed editorial freedom and had consistently been ranked as the most credible electronic media in Hong Kong. There was no reason to doubt that it would not continue to uphold the long-cherished principle. She highlighted that while the BA was statutorily empowered to investigate complaints against any RTHK programming, the Board was only responsible for receiving reports on complaints against RTHK programmes. There would be no pre-censorship as the Board was only responsible for providing general guidance on editorial principles and overall programming directions. It was not within its purview to look into individual programme. She added that the Charter had set out clearly the relationship between the Board and the D of B and it was up to the D of B to advise the Board if it had exceeded its purview.

15. The D of B said that as the head of RTHK and the editor-in-chief accountable for editorial decisions taken on RTHK programmes, he would steadfastly uphold editorial independence in accordance with the Producers' Guidelines, the Charter, and the relevant codes of practices issued by the BA. He said that the RTHK's future working relationship with the Board would be based on the principle of mutual respect. He assured members that as the only RTHK representative on the Board, he would endeavour to enhance the Board's understanding of the operations of RTHK as well as the core principles and values of RTHK programming.

16. Mr CHEUNG Man-kwong said that despite the Government's claim that the Board was only advisory in nature, the provisions in the Charter requiring D of B to report and explain to the Board the reasons for not following the advice of the Board would virtually make D of B subordinate to the Board and have the effect of asking RTHK to curtail its own editorial independence. He said that it would be difficult for the D of B who might be under the constant fear of dismissal to stand firm against the pressure of the Board. He suggested that paragraphs 5.1 and 5.4 be removed from the draft Charter to safeguard the editorial independence of RTHK. In this connection, the Chairman asked whether the D of B would be subordinate to the Board and the CEDB in future and enquired about the future

working relationship between the D of B and the CEDB.

17. In response, SCED highlighted that the D of B was not subordinate to the Board. She said that the Board had no control over the appointment and dismissal of the D of B, which was a civil service post subject to the established civil service appointment mechanism. In accordance with the established performance appraisal mechanism in the civil service, D of B's performance would be evaluated by his immediate supervisor, PSCED(CT). PSCED(CT) said that he and D of B had very close working relationship and had maintained regular and frequent contacts on various issues relating to the operation of RTHK.

18. The Chairman asked whether the meetings of the Board would be open to the public and whether the meeting minutes would be posted on RTHK website for public access so as to enhance transparency and to allay public concern that the Board and the Government might interfere with RTHK's editorial and operational independence in closed meetings. SCED replied that the matter would have to be determined by the Board itself.

19. Ms Emily LAU suggested providing specifically for RTHK's editorial independence in the Charter to safeguard against potential interference by the Government and the Board. SCED noted the suggestion, and reiterated that the Administration had no intention to control RTHK or undermine its editorial independence. She said that the objective of the Charter was to strengthen the corporate governance and editorial independence of the new RTHK and to enhance its accountability to the public and increase the transparency of operation.

20. Mr IP Kwok-him said that while RTHK had the role to monitor Government performance and provide a platform for members of the public to express their views, it should also be subject to public scrutiny. He supported the establishment of the Board as a check and balance mechanism to enhance its accountability to the public and to ensure that RTHK would uphold professional standard of journalism and the principles of impartiality and objectivity in its editorial policies. On the composition of the Board, he said that that apart from professionals and academics, the membership should be expanded to also include representatives from the working class and the labour sector. The Board should have a secretariat of its own instead of being serviced by RTHK staff.

21. SCED replied that as set out in paragraph 5.2 of the draft Charter, the Board would comprise a balanced mix of persons from various sectors with relevant industry and professional experience. To ensure that it could adequately and effectively reflect public views and expectations on RTHK programmes, the Board would solicit public views on programme standards and quality through established channels such as conducting public hearings, opinion surveys and discussion forums etc. As the Board was a non-statutory body with no executive power, she considered it appropriate for RTHK staff to provide secretariat and other necessary support to the Board, in line with the current arrangements for other advisory boards and committees which were usually serviced by relevant departments.

22. In response to Ms Cyd HO's query as to why RTHK was subject to frequent auditing by the Audit Commission which gave the public an impression that RTHK had been fraught with internal administrative and management problems, SCED said that the CEDB had no part in the auditing of RTHK. Same as any other Government department, RTHK was subject to audit and it was up to the Audit Department to decide how its auditing function was carried.

Way forward

23. The Chairman called on the Administration to take note of members' concerns. Ms Emily LAU and Ms Cyd HO strongly urged that a special meeting be held to receive views and submissions from interested parties and members of the public on the subject. The Chairman requested the secretariat to make the necessary meeting arrangements.

(Post-meeting note: With the concurrence of the Panel Chairman, a special meeting had been scheduled for 31 May 2010 to receive views from deputations and interested parties concerning the future operation of the RTHK and the new RTHK Charter. Members were notified of the meeting arrangements vide LC paper No. CB(1)/1709/09-10 issued on 23 April 2010.)

Council Business Division 1
Legislative Council Secretariat
28 May 2010