

立法會
Legislative Council

LC Paper No. CB(1)2366/10-11
(These minutes have been seen
by the Administration)

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Panel on Information Technology and Broadcasting

Minutes of meeting
held on Monday, 9 May 2011, at 2:30 pm
in Conference Room A of the Legislative Council Building

- Members present** : Hon WONG Yuk-man (Chairman)
Dr Hon Samson TAM Wai-ho, JP (Deputy Chairman)
Hon CHAN Kam-lam, SBS, JP
Hon LAU Kong-wah, JP
Hon Emily LAU Wai-hing, JP
Hon LEE Wing-tat
Hon Andrew LEUNG Kwan-yuen, GBS, 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
- Members absent** : Hon Timothy FOK Tsun-ting, GBS, JP
Hon WONG Ting-kwong, BBS, JP
- 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)

Mr Jerry LIU
Head of Create Hong Kong
Commerce and Economic Development Bureau

Mr Wellington FUNG
Secretary-General
Film Development Council

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
Office of the Telecommunications Authority

Mr YK HA
Deputy Director-General of Telecommunications
Office of the Telecommunications Authority

Mr Chaucer LEUNG
Head (Regulatory)¹ and Head (Special Duty),
Office of the Telecommunications Authority

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

Staff in attendance : Mr Joey LO
Senior Council Secretary (1)³

Ms May LEUNG
Legislative Assistant (1)³

Action

I. Confirmation of minutes of meeting

(LC Paper No. CB(1)2063/10-11 -- Minutes of meeting held on 14 March 2011)

The minutes of the meeting held on 14 March 2011 were confirmed.

II. Information paper issued since the last meeting

2. Members noted that no paper had been issued since the last meeting held on 11 April 2011.

III. Date of next meeting and items for discussion

(LC Paper No. CB(1)2065/10-11(01) -- List of outstanding items for discussion

LC Paper No. CB(1)2065/10-11(02) -- List of follow-up actions)

3. Members noted that the next regular Panel meeting would be held on Monday, 13 June 2011 at 2:30 pm to discuss the following items:

- (a) Progress update on the E-Government development; and
- (b) Information security.

Development in innovation and technology

4. Ms Emily LAU noted that according to the Blue Book of Urban Competitiveness recently released by the Chinese Academy of Social Sciences (CASS), Hong Kong's development in innovation and technology had lagged behind other major cities in the Mainland. Another recent report entitled "The Connected Harbour: How the Internet is Transforming Hong Kong's Economy" released by the Boston Consulting Group and Google had reaffirmed Hong Kong's position as a leading digital city in the world. She suggested and members agreed that the Administration's views should be sought on the apparent discrepancies between the two reports when it briefed the Panel on the item of "Facilitating a digital economy, and promoting technological innovation, cooperation and trade" at the regular meeting scheduled for 11 July 2011.

Internet Learning Support Programme

5. Ms Emily LAU expressed concern about the submission from Mr Jeremy Godfrey, the former Government Chief Information Officer (GCIO), dated 18 April 2011 issued to members vide LC Paper No. CB(1)2118/10-11(01) on 6 May 2011. According to Mr Godfrey, the Administration's remarks at the Panel meeting on 14 March 2011 about his role in the events leading to the selection of implementers for the Internet Learning Support Programme (ILSP) were incomplete and misleading. The reasons for him to seek early termination of service were related to the conduct of Government business. In this connection, Mr LEE Wing-tat urged the Administration to clarify the matter to address members' concerns.

6. The Chairman opined that policy issues relating to the implementation of ILSP could be followed up by the Panel. However, as the early termination of service of Mr Godfrey might or might not have an effect on the implementation of ILSP, it would not be fruitful for the Panel to discuss the matter unless Mr Godfrey was prepared to disclose details of the conduct of Government business during his period of service. In fact, other alternatives were available for Mr Godfrey to disclose the details, such as making a statement to the press. He also informed the meeting that Mr Godfrey had made a further submission to the Secretariat on 8 May 2011 on the same matter.

(Post-meeting note: Mr Godfrey's further submission was tabled at the meeting and circulated to members vide LC Paper No. CB(1)2148/10-11(01) on 11 May 2011.)

7. Mr Andrew LEUNG shared the Chairman's view and opined that only the policy issues relating to the ILSP should be followed up by the Panel. It would not be appropriate for the Panel to deal with an individual case concerning only a difference in opinion between Mr Godfrey and the Administration.

8. Mr LAU Kong-wah agreed that there were many other channels for Mr Godfrey to pursue the matter. For example, he could lodge a complaint with the Administration or other statutory complaint handling mechanisms. In this connection, he suggested that the Administration should discuss the matter with Mr Godfrey with a view to resolving their differences.

9. Ms Cyd HO urged the Administration to give permission to Mr Godfrey to speak freely on the reasons of his resignation, and disclose the details of the conduct of Government business in relation to ILSP during his period of service. If no such permission was given for Mr Godfrey to speak on such matters, it would be a waste of time for the Panel to further discuss the matters. The Chairman opined that Permanent Secretary for Commerce

and Economic Development (Communications and Technology) (PSCED(CT)) might not be in a position to give the permission as it was within the purview of the Civil Service Bureau.

10. PSCED(CT) advised that the circumstances leading to the selection of implementation agent for ILSP had been reported in detail to members of this Panel in January and March, and also to the FC in April 2011. The Administration would continue to report progress of implementation of ILSP from time to time. On Mr Godfrey's submission, she stressed that the assessment process of the implementation agent followed established procedures and due process, and it was conducted in a fair manner with the objective of optimizing the benefits for the low income families. It was important to respect the collective decisions made by the established mechanism. In response to members' request for giving permission to Mr Godfrey to disclose the details concerned, she advised that as a former head of department Mr Godfrey ought to know whether and what details should or should not be disclosed, having regard to the Government's rules on confidentiality.

11. The Chairman said that he had tried to contact Mr Godfrey before the meeting but in vain. As there was insufficient information, he had reservations about the Panel taking a decision at this meeting on whether to pursue the matter.

(Post-meeting note: On 11 May 2011, the Panel Chairman received a further submission from Mr Godfrey requesting the Administration to give permission for him to speak at a Panel meeting regarding his views on the ILSP selection process. Mr Godfrey's latest submission and the Chairman's reply were issued to members vide LC Paper No. CB(1)2163/10-11(01) & (02) on 12 May 2011.)

IV. Report on Film Development Fund and retention of the non-civil service position of Secretary-General of the Film Development Council

(LC Paper No. CB(1)2065/10-11(03) -- Administration's paper on report on Film Development Fund and retention of the non-civil service position of Secretary-General of the Film Development Council

LC Paper No. CB(1)2065/10-11(04) -- Paper on implementation of Film Development Fund prepared by the Legislative Council Secretariat (updated background brief)

LC Paper No. CB(1)2098/10-11(01) -- Administration's paper on report on Film Development Fund and retention of the non-civil service position of Secretary-General of the Film Development Council (power-point presentation material)
(Chinese version only, tabled at the meeting and subsequently issued via e-mail on 11 May 2011)

Presentation by the Administration

12. At the invitation of the Chairman, Permanent Secretary for Commerce and Economic Development (Communications and Technology) (PSCED(CT)) briefed members on the progress of the implementation of the Film Development Fund (FDF) Scheme, and sought members' views on the Administration's proposal to retain the non-civil service position of Secretary-General of the Film Development Council (SG/FDC) for a further period of two years. Head of Create Hong Kong then gave a power-point presentation on the subject. Details of the briefing and presentation were set out in the Administration's papers (LC Paper Nos. CB(1)2065/10-11(03) and CB(1)2098/10-11(01) (Chinese version only).

Assessment criteria

13. Mr LEE Wing-tat enquired whether the Administration would conduct a review on the assessment criteria of the FDF Scheme to allow more film productions to benefit from the FDF. Sharing a similar view, the Chairman considered that the assessment criteria should be further relaxed given that the Administration would be able to recoup money from the proceeds of the films.

14. SG/FDC advised that following the review on the FDF Scheme conducted in 2009, the Administration had improved the application and vetting procedures and the layout of the application form. The Scheme adopted a two-tier vetting approach under which the Panel of Examiners (first tier), all of them being industry practitioners, would assist the Fund Vetting Committee (second tier), comprising 60% of industry practitioners, to evaluate applications in respect of film production financing. This would ensure that all applications were assessed objectively from different

perspectives, including feasibility of the production budget and marketability.

15. Ms Cyd HO expressed concern about possible political censorship in the FDF Scheme which would only approve applications for films which were politically or ideologically correct and screen out those films on controversial subjects such as the underworld. She also urged the Administration to further raise the upper limit of the production budget of the film projects supported by FDF, and review the current rule to allow the applicants to obtain financing under the FDF in addition to obtaining financing from other funding schemes, such as the Arts Development Fund. In this regard, Mr IP Kwok-him expressed concern about the possibility of financing films which could have undesirable effects on public morality under FDF.

16. SG/FDC advised that films on subjects such as the underworld normally had substantial production budgets and would not require financing by the FDF. He stressed that the theme of a film would not be a criterion for assessment under the FDF. Instead, all applications would be assessed on the basis of the feasibility of the production budget and marketability of the film. Under the existing mechanism and the principle of financial prudence, a film which had obtained or applied for other financial support from the Government would not be entitled to financing by the FDF.

Need for continuity of the SG/FDC position

17. Mr IP Kwok-him enquired about the way forward for the FDF and the reasons for not converting the non-civil service position of SG/FDC into a permanent post.

18. PSCED(CT) advised that the Administration first proposed in 2007 to create a permanent post of SG/FDC on account of the need to strengthen the work of FDC and the administration of the film-related funding schemes. In the light of concerns expressed by members of the Establishment Subcommittee of FC over the long-term need of the position, the Administration revised the proposal to a time-limited one for two years. FC subsequently approved the creation of the supernumerary position in 2007 and extended it for two years in 2009. The position was due to lapse in November 2011. At this stage, the Administration considered it appropriate to extend the position tentatively for two years. In the meantime, the Administration was reviewing the long-term need of the position in the light of the operational experience gained and would seek to convert it into a permanent one, if so warranted, in accordance with the established mechanism.

19. Deputy Secretary for Commerce and Economic Development (Communications and Technology) (DSCED(CT)) advised that the total funding approved since the injection of \$300 million into the FDF in 2007 was \$150 million. It was anticipated that the uncommitted balance would be sufficient for another two to three years. The Administration would keep the situation under review and consider making further funding applications if warranted.

Manpower support for the Film Services Office

20. Ms Emily LAU noted that local film productions had increased from around 50 per year in 2008 to more than 70 each in 2009 and 2010. She opined that the current number of film productions per year was still low as compared to the peak period. In this regard, she enquired how the Administration would assist the local film industry regain its past glory, and whether the Film Services Office (FSO) had sufficient manpower to cope with the workload.

21. SG/FDC advised that in the first half of 2011 up to April 2011, about 30 films were in the process of production. It was anticipated that the figure for the whole year would rise to about 80. The current manpower of FSO was sufficient to cope with the workload.

Summing up

22. The Chairman concluded that the Panel supported in principle the Administration's establishment proposal.

V. Proposed creation of a Regulatory Affairs Manager grade and a permanent Chief Regulatory Affairs Manager post in the Office of the Telecommunications Authority

(LC Paper No. CB(1)2065/10-11(05) -- Administration's paper on proposed creation of a Regulatory Affairs Manager grade and a permanent Chief Regulatory Affairs Manager post in the Office of the Telecommunications Authority

LC Paper No. CB(1)2129/10-11(01) -- Submission from a representative of the Telecommunications Engineers of the Office of the Telecommunications Authority dated 6 May 2011
(*Chinese version only, tabled at the meeting and subsequently issued via e-mail on 11 May 2011*)

LC Paper No. CB(1)2098/10-11(02) -- Administration's paper on proposed creation of a Regulatory Affairs Manager grade and a permanent Chief Regulatory Affairs Manager post in the Office of the Telecommunications Authority (power-point presentation material))
(*Chinese version only, tabled at the meeting and subsequently issued via e-mail on 11 May 2011*)

Presentation by the Administration

23. At the invitation of the Chairman, Permanent Secretary for Commerce and Economic Development (Communications and Technology) (PSCED(CT)) briefed members on the proposed creation of a Regulatory Affairs Manager (RAM) Grade and a Permanent Chief Regulatory Affairs Manager Post in the Office of the Telecommunications Authority (OFTA). Head (Regulatory)1 and Head (Special Duty) of OFTA then gave a power-point presentation on the subject. Details of the briefing and presentation were set out in the Administration's papers (LC Paper Nos. CB(1)2065/10-11(05) and CB(1)2098/10-11(02) (Chinese version only).

24. The Chairman drew members' attention to the submission from representative of Telecommunications Engineers (TE) of OFTA tabled at the meeting raising, inter alia, objection to the proposed subsuming of the functions of the TE grade under the new civil service grade.

Arrangement for the TE grade

25. Dr Samson TAM supported the proposal for the creation of the new grade. However, he opined that the Administration should improve communication with staff of the TE grade to allay their concerns about its proposal. In particular, he urged the Administration to review the continued need for the expertise of the TE grade before determining on the subsuming arrangements.

26. Director-General of Telecommunications (DGT) stressed that staff of the TE grade did not oppose to the creation of the new RAM grade. Their concerns stemmed from the arrangements for the TE grade following the

creation of the RAM grade and OFTA management was fully aware of their concerns. DGT explained that the recruitment freeze of the TE grade since 1998 and the designation of the TE grade as a voluntary retirement grade in 2003 were due to the diminished operational needs for pure engineering support in its regulatory work. The challenge of OFTA's work since the deregulation of the local fixed market in 1995 had been, and would remain in the years ahead, in regulating the economic aspects of the telecommunications sector, which had grown substantively over the past decade, and in handling the intertwining technical and economic regulatory issues. Serving members of the TE grade did not possess the necessary expertise in economic regulation, including the enforcement of regulations against anti-competitive conduct and unfair trade practices, arbitrating or mediating conflicting commercial interests among telecommunications operators. Neither were they required by their job descriptions to perform such functions.

27. DGT assured members that OFTA's management attached importance to communicating with the TE staff, and had undertaken to conduct the review of the detailed subsuming arrangements of the functions of the grade in consultation with TE grade members. The subsuming arrangement of the TE grade would take into account the service needs of OFTA and the timing of retirement of the serving grade members. Meanwhile, OFTA would continue to encourage and provide sponsorship for staff concerned to equip themselves with additional qualifications for career development in OFTA.

28. The Chairman noted the views of the TE grade that the need for technical regulation had not diminished, as evidenced by the fact that OFTA had continued to recruit some 10 non-civil service contract (NCSC) staff members responsible for technical regulation during the 13-year freeze on recruitment for the TE grade. He also sought the Administration's view on the TE grade's request for withdrawing the subsuming arrangement and resumption of recruitment for the TE grade.

29. DGT advised that the existing NCSC staff members who were recruited to perform the functions of the RAM grade were required to perform in that capacity both technical and economic regulatory work. As such, OFTA would need to embrace talent in the required disciplines including engineering, law, finance, accounting and business administration, etc. This was in contrast with the job specifications of the TE grade, which only required the staff of the grade to perform technical regulatory functions. Given that the mainstay of TE grade's work (i.e. providing engineering support to pure technical regulation) had been diminishing, there would not be sufficient workload to warrant the resumption of recruitment for the TE grade. The gradual subsuming of the functions of TE grade under the RAM grade would enable the development of a single multi-disciplinary civil service grade to more effectively and efficiently perform the regulatory duties

intertwined with both economic and technical issues. Nevertheless, she assured members that the TE grade would remain a civil service grade in OFTA until the retirement of all serving grade members in about 20 years' time.

Manpower and professional support for OFTA

30. Mr LEE Wing-tat expressed concern whether the current proposal would provide sufficient manpower and expert support for OFTA to fulfill its functions of regulating the telecommunications industry which was dominated by large conglomerates.

31. DGT advised that it was one of the main duties of OFTA to regulate the telecommunications industry by ensuring fair competition and fair trade practices in the telecommunications sector. As set out in the Administration's paper to the Panel, over the past decade, OFTA had investigated 49 complaints against anti-competition practices and handled 34 cases of appeals before the Telecommunications (Competition Provisions) Appeal Board and legal challenges in the courts. She assured members that OFTA would enforce the Telecommunications Ordinance (Cap. 106) impartially and vigorously. If the situation warranted, OFTA would not spare any resources and effort in performing its statutory functions by taking worthy cases all the way to the Court of Final Appeal, and by seeking economic and legal consultancy service from the private sector.

32. Mrs Regina IP expressed support for the proposal for the creation of the new grade. She opined that in order for OFTA to perform its multifarious regulatory functions, it was desirable for OFTA to count on the service of permanent staff over the long term. Nevertheless, she expressed concerns about the objection from the staff of TE grade to the proposed subsuming of the functions of the TE grade under the new civil service grade. She also enquired about the qualifications possessed by the existing NCSC staff, and whether the proposed entry requirements for the new RAM grade would be sufficient to equip OFTA with the necessary expertise to deal with increasingly intertwining technical and economic regulatory issues of much greater diversities and complexities. In addition, she sought clarification on how the work of OFTA would be affected in the event of the enactment of a competition law in Hong Kong.

33. DGT advised that the proposed entry requirements for the new RAM grade as stated in the Administration's paper represented only the minimum requirements for the entry rank of RAM. The minimum requirements in terms of post-graduate experience in the relevant field for Senior RAM, Principal RAM and Chief RAM would be eight, ten and twelve years respectively. She advised members that the entry requirements of the RAM grade must be determined having regard to the entry requirements and pay

scales of similar civil service positions, so that OFTA would be in a position to compete for the required talent. If the proposal was approved by the Finance Committee, all the four ranks within the new grade would be subject to open recruitment. Existing NCSC staff would be eligible to apply for the relevant posts and compete with other applicants on an equal footing. Nevertheless, existing NCSC staff who had put up good performance and acquired regulatory experience in OFTA would have natural competitive edge over other applicants who had never worked at OFTA. She added that the existing NCSC staff had cross-disciplinary background in law, business administration, engineering, information technology, accounting, economics and finance.

34. On the impact on OFTA's work in the event of the enactment of the general competition law, DGT advised that regulatory work would increase in terms of workload and complexity as the current administrative model in enforcing the competition provisions under the Telecommunications Ordinance would be replaced by the judicial enforcement model proposed under the Competition Bill.

Summing up

35. The Chairman concluded that the Panel supported in principle the Administration's establishment proposal.

VI. Any other business

36. There being no other business, the meeting ended at 4:10 pm.