

立法會
Legislative Council

LC Paper No. CB(4)442/12-13
(These minutes have been seen
by the Administration)

Ref : CB4/PL/ITB/1

Panel on Information Technology and Broadcasting

Minutes of special meeting
held on Saturday, 24 November 2012, at 9:00 am
in Conference Room 1 of the Legislative Council Complex

- Members present** : Hon WONG Yuk-man (Chairman)
Dr Hon Elizabeth QUAT, JP (Deputy Chairman)
Hon Emily LAU Wai-hing, JP
Hon WONG Ting-kwong, SBS, JP
Hon Mrs Regina IP LAU Suk-ye, GBS, JP
Hon Paul TSE Wai-chun, JP
Hon LEUNG Kwok-hung
Hon Albert CHAN Wai-yip
Hon Claudia MO
Hon Steven HO Chun-yin
Hon MA Fung-kwok, SBS, JP
Hon Charles Peter MOK
Hon CHAN Chi-chuen
Hon SIN Chung-kai, SBS, JP
Ir Dr Hon LO Wai-kwok, BBS, MH, JP
Hon Christopher CHUNG Shu-kun, BBS, MH, JP
- Members absent** : Hon James TO Kun-sun
Hon Ronny TONG Ka-wah, SC
Hon Cyd HO Sau-lan
Hon YIU Si-wing

**Public officers
attending**

: Session One

Mr Gregory SO, JP
Secretary for Commerce and Economic
Development

Mr Joe WONG, JP
Deputy Secretary for Commerce and Economic
Development (Communications and Technology)

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

Session Two

Mr Joe WONG, JP
Deputy Secretary for Commerce and Economic
Development (Communications and Technology)

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

Session Three

Miss Susie HO, JP
Permanent Secretary for Commerce and Economic
Development (Communications and Technology)

Mr Joe WONG, JP
Deputy Secretary for Commerce and Economic
Development (Communications and Technology)

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

Office of the Communications Authority

Mr Vincent LIU, JP
Deputy Director-General (Broadcasting) / Deputy
Director of Film, Newspaper & Article
Administration

**Attendance by
invitation**

: Session One to Three

Digital Broadcasting Corporation Hong Kong
Limited

Ir Albert CHENG, GBS, FHKIE, JP
Founder, President and Editor-in-chief

Mr Morris HO
Chief Executive Officer

Session One (9:00 am - 11:00 am)

Mr Jacky LIM

Mr CHAN Mofiz

Miss Kataly LAI Heung-yi

Hong Kong In-Media, Advocacy

Ms FONG Yuk-kwan

HK Digital Radio Development Association

Mr Sam HUI Kin-sang

Mr LIU Chin-fung

Miss Denise LEE Sze-man

Miss Cary CHEUNG

Mr Antonio LUK Ling-chung

Mr TANG Chi-cheong

Mr LAW Yuk-kai

Miss Martha WONG

Mr Peter LAU Kee-yun

Miss LAM Wai-yee

Miss DANG Po-chu

Ms NG Yuk-chu

Miss Amelia TSANG

Miss SHUM Yuen-ming

Mr WONG Chi-mun

Miss SO Lai-yung

Mr KWOK Kin-chung

Ms YEUNG Ka-yan

Mr Joe WONG

Miss Cindy LAI

Miss Vivien WEN

Session Two (11:10 am - 1:10 pm)

Mr CHEUNG Tak-wing

Ms MAK Lai-ming

Mr LUM Kei-po

Ms Isabel LO

Ms YUEN Sau-king

Imagination Technologies Group Plc

Mr Jacob SZOT

Miss Vivian SHEK Wai-him

Ms LEUNG Po-ying

Mr Julian KAN Chi-chung

Ms LEE Wai-kwan

Ms LI Wai-nam

Mr CHAN Chi-wai

Mr CHOW Siu-fai

Ms KONG Janey

Mr SO Cheuk-hei

Ms LEE Pik-kwan

Mr LAI Chak-fun

Mr Benson WONG

Ms WONG Hang-ling

Mr LEUNG Wing-cheung

Miss Ziska LO

Miss Grace LAM Fung-ling

Ms CHENG Mui-chiu

Session Three (2:10 pm - 4:10 pm)

Mr CHEUNG Wai-yun

Miss Elsa FAN Wai-yin

Mr CHAN Siu-hin

Ms LAW Yuk-lan

Mr Anthony LAM Yue-yeung

Ms POON Shun

Miss CHEUNG Oi-lin

Mr LEE Ka-yu

Ms CHAN Wai-sim

Mr AU Wing-fai

Mr TAM Tsak-lam

Mr Edward CHIN

Mr LU Shan-ching

Mr CHIN Wai-lok

Ms Ruby KWONG

Ms CHAN Hee-may

Miss CHEUNG Wai-kuen

The Lion Rock Institute

Miss Janice Rui-xian FUNG

Ms Anne LAW

Miss WONG Wing-yan

Ms CHAN Kam-lin

Miss LAM Wai-fan

Mr Cody WONG Tze-hei

Mr Daniel LI

Mr MAK Yun-sau

Clerk in attendance: Ms YUE Tin-po
Chief Council Secretary (4)3

Staff in attendance : Mr Joey LO
Senior Council Secretary (4)3

Ms Anki NG
Council Secretary (4)3

Miss Iris CHEUNG
Legislative Assistant (4)2

Miss Denise LAU
Clerical Assistant (4)2

Action

I. Issues relating to the discontinuation of broadcasting service by Digital Broadcasting Corporation Hong Kong Limited

The Deputy Chairman chaired the meeting in the temporary absence of the Chairman who was attending the Public Hearing of the Public Accounts Committee which clashed with the morning sessions of the meeting.

Session One

Welcoming remarks by the Deputy Chairman

2. The Deputy Chairman welcomed representatives of the Administration and the Digital Broadcasting Corporation Hong Kong Limited ("DBC") and deputations to the meeting. She reminded the deputations that, when addressing the Panel at the meeting, they were not covered by the protection and immunity under the Legislative Council (Powers and Privileges) ("P&P") Ordinance (Cap. 382), and their written submissions were not covered by the said Ordinance. She also reminded members of Rules 83A and 84 of the

Rules of Procedure on declaration of interest, and Rule 41(2) on reference made by members to a case pending in a court of law.

Presentation by deputations

Mr Jacky LIM

3. Mr Jacky LIM expressed strong disagreement about the recent remark by the Secretary for Commerce and Economic Development ("SCED") that the DBC issue was a business dispute among its shareholders. He was dissatisfied that the Administration had declined to look into the matter, resulting in DBC's discontinuation of broadcasting service which affected many members of the public. For the sake of public interest, he strongly urged the Administration to request the shareholders of DBC to resolve the problem and resume its broadcasting service as soon as possible.

Mr Mofiz CHAN

[LC Paper No. CB(4)173/12-13(03)]

4. Mr Mofiz CHAN presented his views as detailed in his submission.

Miss Kataly LAI Heung-yi

[LC Paper No. CB(4)173/12-13(04)]

5. Miss Kataly LAI Heung-yi presented her views as detailed in her submission.

Ms FONG Yuk-kwan, Advocacy, Hong Kong In-Media

6. Miss FONG Yuk-kwan, Advocacy, Hong Kong In-Media said that in order to protect the freedom of expression and public interest, the Administration should look into the allegation of political interference behind the discontinuation of broadcasting service by DBC. She said that it was an issue of public concern as many listeners from all walks of life were directly affected.

Mr Sam HUI Kin-sang, HK Digital Radio Development Association

[LC Paper No. CB(4)173/12-13(05)]

7. Mr Sam HUI Kin-sang, HK Digital Radio Development Association presented his views as detailed in his submission.

Mr LIU Chin-fung

[LC Paper No. CB(4)173/12-13(06)]

8. Mr LIU Chin-fung presented his views as detailed in his submission.

Miss Denise LEE Sze-man

9. Ms Denise LEE Sze-man expressed dismay that the Administration had played down the DBC issue. She opined that the Administration should take a more proactive role in resolving the matter.

Miss Cary CHEUNG

[LC Paper No. CB(4)173/12-13(07)]

10. Ms Cary CHEUNG presented her views as detailed in her submission.

Mr Antonio LUK Ling-chung

[LC Paper No. CB(4)173/12-13(08)]

11. Mr Antonio LUK Ling-chung presented his views as detailed in his submission.

Mr TANG Chi-cheong

[LC Paper No. CB(4)173/12-13(09)]

12. Mr TANG Chi-cheong presented his views as detailed in his submission.

Mr LAW Yuk-kai, Director, Human Rights Monitor Hong Kong

13. Mr LAW Yuk-kai, Director, Human Rights Monitor Hong Kong, expressed disagreement with the Administration's view that the DBC issue was purely a business dispute. He said that the decision of some of the major shareholders of DBC led by Mr Bill WONG Cho-bau against buying or selling their shareholdings or further investing did not make business sense, as it was likely to lead to a total loss in the event of liquidation of DBC. He said that the Administration had the responsibility to ensure that the public airwaves were put to good use. He drew the Administration's attention to Article 4 of the Basic Law which provided that the Hong Kong Special Administrative Region should safeguard the rights and freedom of the residents of Hong Kong Special Administrative Region. He urged the Administration to appoint an independent investigation committee to look into the matter.

Miss Martha WONG

[LC Paper No. CB(4)173/12-13(10)]

14. Miss Martha WONG presented her views as detailed in her submission.

Mr Peter LAU Kee-yun

15. Mr Peter LAU Kee-yun expressed deep regret about the discontinuation of broadcasting service by DBC. He urged the Administration to take a proactive approach in handling the issue, and allow DBC to resume its broadcasting service as soon as possible.

Miss LAM Wai-yee

16. Miss LAM Wai-yee expressed grave concern about the cessation of broadcasting service by DBC, and urged LegCo to appoint a select committee to look into the matter so as to find out if any political interference was involved.

Miss DANG Po-chu

[LC Paper No. CB(4)173/12-13(11)]

17. Miss DANG Po-chu presented her views as detailed in her submission.

Ms NG Yuk-chu

[LC Paper No. CB(4)173/12-13(12)]

18. Ms NG Yuk-chu presented her views as detailed in her submission.

Miss Amelia TSANG

19. Miss Amelia TSANG expressed grave dissatisfaction with the way the Administration had handled the DBC issue. She opined that SCED should be held politically accountable for the situation. She also urged the Administration to resume the service of DBC as soon as possible.

Miss SHUM Yuen-ming

[LC Paper No. CB(4)173/12-13(13)]

20. Miss SHUM Yuen-ming presented her views as detailed in her submission.

Mr WONG Chi-mun

[LC Paper No. CB(4)173/12-13(14)]

21. Mr WONG Chi-mun presented his views as detailed in his submission.

Miss SO Lai-yung
[LC Paper No. CB(4)173/12-13(15)]

22. Miss SO Lai-yung presented her views as detailed in her submission.

Mr KWOK Kin-chung

23. Mr KWOK Kin-chung expressed regret about the cessation of service by DBC and the handling of the DBC issue by the Administration. He urged LegCo to appoint a select committee to look into the matter. He also considered that being a facilitator for the development of digital audio broadcasting ("DAB") in Hong Kong, the Administration had the responsibility to inquire into the DBC issue.

Ms YEUNG Ka-yan
[LC Paper No. CB(4)173/12-13(17)]

24. Ms YEUNG Ka-yan expressed her views as detailed in her submission.

Mr Joe WONG, former DBC staff and representative of the Civic Party
[LC Paper No. CB(4)197/12-13(1)]

25. Mr Joe WONG, former DBC staff and representative of the Civic Party expressed his views as detailed in his submission.

Miss Cindy LAI
[LC Paper No. CB(4)178/12-13(48)]

26. Miss Cindy LAI expressed her views as detailed in her submission.

Miss Vivien WEN
[LC Paper No. CB(4)178/12-13(49)]

27. Ms Vivien WEN expressed her views as detailed in her submission.

Session 2

Mr CHEUNG Tak-wing
[LC Paper No. CB(4)185/12-13(04)]

28. Mr CHEUNG Tak-wing expressed his views as detailed in his submission.

Ms MAK Lai-ming
[LC Paper No. CB(4)173/12-13(20)]

29. Ms MAK Lai-ming expressed her views as detailed in her submission.

Mr LUM Kei-po
[LC Paper No. CB(4)173/12-13(21)]

30. Mr LUM Kei-po expressed his views as detailed in his submission.

Ms Isabel LO
[LC Paper No. CB(4)178/12-13(01)]

31. Ms Isabel LO expressed her views as detailed in her submission.

Ms YUEN Sau-king
[LC Paper No. CB(4)173/12-13(23)]

32. Ms YUEN Sau-king expressed her views as detailed in her submission.

Mr Jacob SZOT, representative of Imagination Technologies Group Plc

33. Mr Jacob SZOT said that his company was a leading international supplier of digital radios. He urged members to support DBC for the sake of the development of DAB in Hong Kong and for the benefit of the audience.

Miss Vivian SHEK Wai-him

34. Ms Vivian SHEK Wai-him said that the discontinuation of broadcasting service by DBC would deprive the underprivileged and the elderly of the right to enjoy free entertainment. She said that as a facilitator for the development of creative industry in Hong Kong, the Administration was duty-bound to look into the DBC incident and provide any necessary assistance.

Ms LEUNG Po-ying
[LC Paper No. CB(4)173/12-13(24)]

35. Ms LEUNG Po-ying expressed her views as detailed in her submission.

Mr Julian KAN Chi-chung
[LC Paper No. CB(4)185/12-13(5)]

36. Mr Julian KAN Chi-chung expressed his views as detailed in his submission.

Ms LEE Wai-kwan
[LC Paper No. CB(4)173/12-13(25)]

37. Ms LEE Wai-kwan expressed her views as detailed in her submission.

Ms LI Wai-nam
[LC Paper No. CB(4)173/12-13(26)]

38. Ms LI Wai-nam expressed her views as detailed in her submission.

Mr CHAN Chi-wai
[LC Paper No. CB(4)173/12-13(27)]

39. Mr CHAN Chi-wai expressed his views as detailed in his submission.

Mr CHOW Siu-fai
[LC Paper No. CB(4)178/12-13(03)]

40. Mr CHOW Siu-fai expressed his views as detailed in his submission.

Ms Janey KONG
[LC Paper No. CB(4)173/12-13(29)]

41. Ms Janey KONG expressed her views as detailed in her submission.

Mr SO Cheuk-hei

42. Mr SO Cheuk-hei was dissatisfied that the Administration had adopted a double standard in its positive intervention of the telecast of the London 2012 Olympic Games, whilst refusing to intervene in the dispute among the shareholders of DBC. He urged the Administration to take action in resolving the DBC issue as a matter of urgency.

Ms LEE Pik-kwan

43. Ms LEE Pik-kwan said that as the DAB licence of DBC was issued by the Administration, it had the responsibility to ensure the normal operation of DBC in the provision of its DAB service.

Mr LAI Chak-fun, former staff of DBC

44. Mr LAI Chak-fun expressed grave disappointment at the absence of SCED from the second and third sessions of the meeting. He opined that by not attending these sessions, SCED had demonstrated his indifference to public opinion. He believed that the decision of the major shareholders to discontinue the broadcasting service by DBC was a result of political interference from the authority concerned.

Mr Benson WONG

45. Mr Benson WONG also expressed dismay at the absence of SCED from the second and third sessions of the meeting. He was disappointed with the Administration's continued disregard to public demand for the resumption of DBC's broadcasting service.

Ms WONG Hang-ling

46. Ms WONG Hang-ling said that DBC's service was precious to the public, especially the underprivileged and the aged. She urged LegCo to appoint a select committee to look into the matter.

Mr LEUNG Wing-cheung

[LC Paper No. CB(4)173/12-13(30)]

47. Mr LEUNG Wing-cheung expressed his views as detailed in his submission.

Miss Ziska LO

[LC Paper No. CB(4)173/12-13(31)]

48. Ms Ziska LO expressed her views as detailed in her submission.

Miss Grace LAM Fung-ling

[LC Paper No. CB(4)178/12-13(04)]

49. Ms Grace LAM Fung-ling expressed her views as detailed in her submission.

Ms CHENG Mui-chiu

[LC Paper No. CB(4)178/12-13(66)]

50. Ms CHENG Mui-chiu expressed her views as detailed in her submission.

Session 3

Mr CHEUNG Wai-yun

[LC Paper No. CB(4)178/12-13(05)]

51. Mr CHEUNG Wai-yun expressed his views as detailed in his submission.

Miss Elsa FAN Wai-yin

[LC Paper No. CB(4)173/12-13(32)]

52. Miss Elsa FAN Wai-yin expressed her views as detailed in her submission.

Mr CHAN Siu-hin

[LC Paper No. CB(4)182/12-13(01)]

53. Mr CHAN Siu-hin expressed his views as detailed in his submission.

Ms LAW Yuk-lan

54. Ms LAW Yuk-lan said that listening to the broadcasting of DBC had become an ingrained habit in her daily life. The broadcasting service of DBC had also greatly improved her quality of life. She urged the Administration to resume the service of DBC as soon as possible.

Mr Anthony LAM Yue-yeung

55. Mr Anthony LAM Yue-yeung urged the Administration to open up the airwaves and allow all interested parties to participate in the provision of broadcasting services regardless of their financial resources.

Ms POON Shun

[LC Paper No. CB(4)185/12-13(07)]

56. Ms POON Shun expressed her views as detailed in her submission.

Miss CHEUNG Oi-lin

[LC Paper No. CB(4)173/12-13(34)]

57. Miss CHEUNG Oi-lin expressed her views as detailed in her submission.

Mr LEE Ka-yu
[LC Paper No. CB(4)182/12-13(02)]

58. Mr LEE Ka-yu expressed his views as detailed in his submission.

Ms CHAN Wai-sim
[LC Paper No. CB(4)182/12-13(03)]

59. Ms CHAN Wai-sim expressed her views as detailed in her submission.

Mr AU Wing-fai
[LC Paper No. CB(4)185/12-13(08)]

60. Mr AU Wing-fai expressed his views as detailed in his submission.

Mr TAM Tsak-lam
[LC Paper No. CB(4)185/12-13(06)]

61. Mr TAM Tsak-lam expressed his views as detailed in his submission.

Mr Edward CHIN
[LC Paper No. CB(4)173/12-13(35)]

62. Mr Edward CHIN expressed his views as detailed in his submission.

Mr LU Shan-ching, former staff of DBC

63. Mr LU Shan-ching urged the Administration to resolve the disputes among the shareholder of DBC through mediation. He also expressed disappointment at SCED's inaction on the issue.

Mr CHIN Wai-lok

64. Mr CHIN Wai-lok said that the freedom of press and freedom of speech, which were the core values of Hong Kong and the cornerstones of democracy, should be protected at all costs. He expressed regret about the Administration's indifference towards the DBC issue. He also held the view that it was in the public's interest for LegCo to pursue the matter.

Ms Ruby KWONG
[LC Paper No. CB(4)173/12-13(37)]

65. Ms Ruby KWONG expressed her views as detailed in her submission.

Ms CHAN Hee-may
[LC Paper No. CB(4)173/12-13(38)]

66. Ms CHAN Hee-may expressed her views as detailed in her submission.

Miss CHEUNG Wai-kuen
[LC Paper No. CB(4)173/12-13(39)]

67. Ms CHEUNG Wai-kuen expressed her views as detailed in her submission.

Miss Janice Rui-xian FUNG, representative of the Lion Rock Institute
[LC Paper No. CB(4)178/12-13(06)]

68. Miss Janice Rui-xian FUNG expressed the views of her organization as detailed in its submission.

Ms Anne LAW

69. Ms Anne LAW expressed dissatisfaction about the inaction of SCED on the DBC issue. She said that it was incumbent upon SCED to find out the truth behind the discontinuation of broadcasting service by DBC.

Miss WONG Wing-yan

70. Miss WONG Wing-yan expressed dissatisfaction that SCED had refused to respond directly on the alleged recordings of DBC meetings. She also expressed disappointment at SCED's inaction on the issue. She considered it necessary for LegCo to appoint a select committee to inquire into the matter.

Ms CHAN Kam-lin
[LC Paper No. CB(4)173/12-13(40)]

71. Ms CHAN Kam-lin expressed her views as detailed in her submission.

Miss LAM Wai-fan
[LC Paper No. CB(4)173/12-13(41)]

72. Miss LAM Wai-fan expressed her views as detailed in her submission.

Mr Cody WONG Tze-hei

73. Mr Cody WONG Tze-hei expressed disappointment about SCED's absence from the second and third sessions of the meeting, as well as his inaction in the DBC issue. He also raised doubts about the different treatment of shareholders' disputes in the previous ATV case vis-à-vis the DBC affair.

Mr Daniel LI

74. Mr Daniel LI said that the discontinuation of broadcasting service by DBC had deprived the public of the access to more media choices. He appealed to Members of the pro-establishment camp to support the upcoming motion urging for a LegCo inquiry into the matter.

Mr MAK Yun-sau

75. Mr MAK Yun-sau urged the Administration to adopt a more sympathetic attitude towards the listeners and former staff members of DBC, and to play the role of mediator to resolve disagreements among the shareholders of DBC.

Presentation by the Administration

76. At the invitation of the Deputy Chairman, Secretary for Commerce and Economic Development ("SCED") briefed members in the first session of the meeting on the latest development on the issues relating to the discontinuation of broadcasting service by DBC. Permanent Secretary for Commerce and Economic Development (Communications and Technology) ("PSCED(CT)) and Deputy Secretary for Commerce and Economic Development (Communications and Technology) ("DSCED(CT)) also briefed members on the subject in the second and third sessions respectively. Details of the presentation were set out in the Administration's paper (LC Paper No. CB(4)58/12-13(01)).

Discussion

Effect on the business environment

77. Ms Emily LAU agreed with Mr LAW Yuk-kai that the Administration was duty-bound under the Basic Law to intervene in the DBC issue in order to protect the freedom of expression in Hong Kong. Moreover, the Administration, being the facilitator to promote DAB, had the responsibility to ensure a favourable business environment which was conducive to the

promotion of further development of DAB in Hong Kong. She urged the Administration to make reference to its handling of the telecast of the London 2012 Olympic Games, by intervening in the dispute among the shareholders of DBC, so as to protect the interest of members of the public in listening to DBC's programmes. Sharing a similar view, Mr MA Fung-kwok expressed concern that Hong Kong's business environment would be jeopardized as a result of the discontinuation of broadcasting service by DBC. He hoped that the Administration would try its best to mediate in the dispute.

78. SCED advised that the Administration had all along supported the development of DAB in Hong Kong. In March 2011, the Chief Executive in Council ("CE in Council") granted DBC, Metro Broadcast Corporation Limited and Phoenix U Radio Limited sound broadcasting licences to provide DAB services. The three commercial broadcasters, together with Radio Television Hong Kong, provided a total of 18 DAB channels in phases. The total amount of Government expenditure on the promotion of DAB was about \$4 million. Another \$46 million had been committed in the installation of DAB transmission equipment in 11 Government-run tunnels. As DBC was required under its licence conditions to provide seven channels and broadcast 24 hours a day, the Administration was very concerned about the situation of DBC and hoped that it could resume its DAB services soon. The Administration had closely liaised with the management of DBC on the development of the issue. He added that matters relating to the telecast of the London 2012 Olympic Games involved communication problems between institutions, and were completely different from the DBC incident in nature, which involved internal problems within the company.

79. SCED added that Hon Ronny TONG, in his capacity as the legal representative of DBC, had referred to the issue as a "business dispute" at a public gathering outside the Central Government Offices at Tamar. SCED considered it inappropriate for the Government to interfere with the internal operation of broadcasting companies, nor to play the role of a commercial mediator to resolve disagreements on injection of capital among shareholders. Regarding the allegation by members of the public attending the meeting about different treatment given by the Government in handling the shareholders' disputes in the ATV case vis-à-vis the DBC case, PSCED(CT) advised that the former SCED did look into the ATV case in 2010 regarding the change of its principal officers but not the dispute among its shareholders.

Allegation of political interference

80. Ms Claudia MO expressed regret that SCED had misinterpreted Hon Ronny TONG's remarks on purpose in order to cover up the political interference of the Liaison Office of the Central People's Government in the

Hong Kong Special Administrative Region ("the Liaison Office"). As far as she was aware, Hon Ronny TONG was speaking in his capacity as a LegCo Member rather than a legal adviser of Ir Albert CHENG, Founder, President and Editor-in-chief of DBC. In this connection, Mr LEUNG Kwok-hung expressed dissatisfaction that the Administration had failed to make independent judgment on the incident, but only relied on others' remarks in making an assessment of the DBC affair. He criticized SCED for failing to perform his responsibilities in looking into the matter. Sharing a similar view, Mr Albert CHAN considered that an independent investigation committee, to be headed by Mr Andrew LI Kwok-nang, the former Chief Justice of the Court of Final Appeal, should be appointed to look into the matter. If the investigation committee found that political interference was involved, SCED should be held politically accountable and step down from office. In this connection, Ir Albert CHENG echoed Ms MO's view that SCED had misquoted Hon Ronny TONG's remarks by taking such remarks out of context. He disagreed with SCED's comment that Hon Ronny TONG had come to the conclusion that the DBC issue was a "business dispute".

81. In response, SCED reiterated that it was the Administration's stance that the DBC issue was a "business dispute" arising from the disagreements on injection of capital among shareholders. In response to Ms Claudia MO's enquiry about actions taken to investigate the allegation of political interference, SCED advised that the Administration had neither made enquiries on the matter with Mr WONG Cho-bau, the shareholder of DBC, nor the Liaison Office. The Administration and the Office of the Communications Authority (OFCA) had liaised closely with the management of DBC on the development of the issue until the appointment of the interim receiver. After that, the Administration and OFCA had communicated mainly with the interim receiver on the issue.

Six-year investment plan

82. In response to Mr Charles Peter MOK's enquiry about the amount of investment committed by DBC, SCED said that DBC's licence only contained conditions regulating the total capital investment during the period from 2011 to 2017. As explained by OFCA at the special Panel meeting on 24 November 2012, the amount of capital provided by DBC shareholders as of February 2012 had already exceeded the planned investment on capital expenditure and programme expenditure for the first year as committed by the company. At Mr MOK's request, the Administration undertook to provide information on the comparison between DBC and the other DAB licencees in terms of total investment, manpower, programme hours and audience ratings.

(*Post-meeting note:* The information provided by the Administration was circulated to members vide LC Paper No. CB(4)204/12-13(01) on 4 December 2012.)

83. Ir Albert CHENG said that in applying for the DAB licence, the shareholders of DBC gave an undertaking to the Government that within the first six years of service, they would invest a total of \$620 million in DBC. Up to now, the total amount of capital provided by the shareholders was only \$150 million. He considered the Administration's remark misleading as the \$150 million of capital had been used mainly in the development of the DAB service after DBC was granted with the licence to provide DAB service. He said that no further capital had been provided by the shareholders since the formal launch of DBC on 21 September 2012. In this connection, Mr SIN Chung-kai enquired about the baseline date from which DBC's six-year investment plan should be counted.

84. In response, SCED clarified that the investment should be counted from the date of grant of the service licence to DBC, i.e. March 2011. Counting from this date, the amount of capital provided by DBC shareholders as of February 2012 had exceeded the planned investment on capital expenditure and programme expenditure for the first year as committed by the company.

Follow-up actions after the cessation of broadcasting service by DBC

85. Mr CHAN Chi-chuen enquired about the follow-up actions taken by the Administration since the cessation of broadcasting service by DBC in October 2012. In response, SCED advised that the Administration contacted DBC on the same day and confirmed the appointment of an accounting firm as an interim receiver. After DBC had been taken over by the interim receiver, the Administration and OFCA wrote to the company to ascertain any impact on the company's operation arising from the appointment of the interim receiver. The authorities would continue to follow up on developments with the interim receiver, keep a close watch on the compliance of DBC with its licence conditions and the Telecommunications Ordinance (Cap. 106), and take follow up actions in accordance with the law.

86. Mr Morris HO, Chief Executive Officer, DBC advised that since Deloitte Touche Tohmatsu was appointed by the High Court as the interim receiver of DBC in October 2012, he and Ir Albert CHENG had been deprived of the right to participate in the internal operation of DBC.

87. In response to the views of members of the public attending the meeting on the follow-up actions taken by the Panel, Mr Charles Peter MOK advised that at the special Panel meeting on 26 October 2012, Mr Albert CHAN moved a motion for the appointment of a select committee by LegCo to inquire into issues relating to the discontinuation of broadcasting service by DBC. The motion was passed by the Panel. However, the Panel's proposal was not supported by the House Committee. Mr Albert CHAN would proceed to move a motion at the Council meeting on 5 December 2012 to appoint a select committee to inquire into the matter. He urged members to support Mr CHAN's motion.

Way forward

88. Mr SIN Chung-kai enquired about the negotiations on the buying of shares from the major shareholders led by Mr WONG Cho-bau by the group of shareholders led by Ir Albert CHENG. In response, Ir Albert CHENG said that the negotiations dated back to June 2012 but had been stuck in deadlock as the major shareholders had decided neither to buy nor sell any shares at a recent shareholders' meeting, the relevant details of which he was allowed to disclose. It was also proposed at the meeting that both he and Mr Morris HO be removed from office, and that DBC be brought to liquidation. Nevertheless, the proposals were not pursued due to procedural reasons and the strong objection from him and Mr HO.

89. Ir Albert CHENG added that Mr Morris HO, Mr Ronald ARCULLI and himself had recently issued a joint letter to the CA saying that subject to the resolution of the dispute among the shareholders, the three of them could ensure the resumption of broadcasting service by DBC to a limited extent within one week, and fully within the following month in compliance with its licensing conditions. They had also initiated legal proceedings to apply for a High Court ruling on the issue of capital injection. Mr Morris HO added that during the negotiations, all possible proposals to resolve the deadlock had been put to the major shareholders. Nevertheless, these shareholders did not support the proposals for introduction of new shareholders and the dilution of their shareholdings.

90. Mr CHAN Chi-chuen enquired about the worse case scenario in the event of failure of all the rescue plans for DBC. DSCED(CT) added that depending on severity of the contravention of licence conditions by DBC, the penalty imposed on the licensee could range from a fine or suspension of licence to revocation of licence. Nevertheless, the Administration considered that it was too early to speculate on the final outcome of the case.

91. Mr Morris HO said that DBC's creditors had been issuing reminders or initiating litigations urging DBC to settle its debts. If DBC failed to do so, the creditors could apply to the court for its liquidation. He was concerned that in the event of liquidation, CE in Council was likely to revoke the licence of DBC.

92. Ms Emily LAU enquired about whether any new licences would be issued in the event of revocation of DBC's licence. DSCED(CT) advised that the Administration would not rule out the possibility of issuing new DAB licences if radio spectrum was returned in the event of DBC's liquidation. He added that there was no time limit for the submission of applications for DAB licences.

II. Any other business

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

Council Business Division 4
Legislative Council Secretariat
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