

立法會
Legislative Council

LC Paper No. CB(4)365/12-13
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by the Administration)

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Panel on Information Technology and Broadcasting

Minutes of meeting
held on Monday, 10 December 2012, at 2:30 pm
in Conference Room 3 of the Legislative Council Complex

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

**Public officers
attending**

: Agenda item III

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

Mr LAI Daniel, BBS, JP
Government Chief Information Officer

Miss Joey LAM, JP
Deputy Government Chief Information Officer
(Policy and Customer Service)

Mr KWONG Kam Keung, Dominic
Assistant Government Chief Information Officer
(Digital Economy Facilitation) (Atg.)

Agenda Item IV

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 Ivanhoe CHANG
Principal Assistant Secretary for Commerce and
Economic Development (Communications &
Technology)B

Mr Y K HA
Deputy Director-General (Telecommunications)
Office of the Communications Authority

Mr Chaucer LEUNG
Assistant Director (Support)
Office of the Communications Authority

Mr Patrick HO
Head, Regulatory Accounting & Finance
Office of the Communications Authority

Agenda Item V

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 and
Technology)A

Mr Vincent LIU, JP
Deputy Director-General (Broadcasting)
Office of the Communications Authority

Miss Katy FONG
Assistant Director (Broadcasting)
Office of the Communications Authority

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

I. Information paper issued since the last meeting

- (LC Paper No. CB(4)155/12-13(01) -- Submission from a member of the public on the articulation of radio programme hosts of Radio Television Hong Kong (Restricted to Members))
(*Chinese version only*)

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

II. Date of next meeting and items for discussion

- (LC Paper No. CB(4)201/12-13(01) -- List of outstanding items for discussion
- LC Paper No. CB(4)201/12-13(02) -- List of follow-up actions
- LC Paper No. CB(4)201/12-13(03) -- Letter from Hon Charles Peter MOK dated 21 November 2012
(*Chinese version only*)
- LC Paper No. CB(4)201/12-13(04) -- Letter from Hon Claudia MO dated 22 November 2012
(*Chinese version only*)
- LC Paper No. CB(4)212/12-13(01) -- Letter from Hon CHAN Chi-chuen dated 4 December 2012
(*Chinese version only*)

Regular Panel meeting on 14 January 2013

2. Members noted that the next regular Panel meeting would be held on Monday, 14 January 2013, at 2:30 pm to discuss the following items:

- (a) Review of fees under the Entertainment Special Effects (Fees) Regulation; and
- (b) Findings of the second round of public consultation on the review of Control of Obscene and Indecent Articles Ordinance.

3. Having noted the concern raised by Mr Charles MOK in his letter dated 21 November 2012 (LC Paper No. CB(4)201/12-13(03)) about the implementation of the Internet Learning Support Programme by eInclusion,

members agreed that the subject matter be included in the agenda for the forthcoming regular Panel meeting.

4. Having noted and discussed the Administration's written response (LC Paper No. CB(4)235/12-13(02)) to the concern raised by Ms Claudia MO in her letter dated 22 November 2012 about advertisements of a political nature in electronic media (LC Paper No. CB(4)201/12-13(04)), members agreed that the subject matter be included in the agenda for the forthcoming regular Panel meeting for members to follow up the issue with the Administration.

Special meeting on 25 January 2013

5. Having noted the concern raised by Mr CHAN Chi-chuen in his letter dated 4 December 2012 (LC Paper No. CB(4)212/12-13(01)) about issues relating to the applications for domestic free television programme service licences, members agreed that a special meeting would be held in January 2013 to discuss the matter with the Administration. Members also agreed that the three applicants for the new domestic free television programme service licenses and the two licensees be invited to attend the meeting. In his letter dated 10 December 2012 (LC Paper No. CB(4)235/12-13(01)), Mr SIN Chung-Kai requested the Administration to provide the relevant consultancy report(s) regarding the issue of new licenses for the Panel's reference.

(Post-meeting note: With the concurrence of the Panel Chairman, the special meeting was scheduled to be held on Friday, 25 January 2013 at 10:45 am in Conference Room 1 of the Legislative Council Complex.)

Special meeting for policy briefing on 18 January 2013

6. The Chairman reminded members that a special meeting would be held in January 2013 to receive briefing by the Secretary for Commerce and Economic Development on relevant policy initiatives featuring in the Chief Executive's 2013 Policy Address.

(Post-meeting note: With the concurrence of the Panel Chairman, the special meeting is scheduled to be held on Friday, 18 January 2013 at 4:30 pm in Conference Room 1 of the Legislative Council Complex.)

III. Revision of fees payable in respect of applications for the recognition of certification authorities, the recognition of digital certificates or the renewal of such recognition under the Electronic Transactions Ordinance (Cap. 553)

(LC Paper No. CB(4)201/12-13(05) -- Administration's paper on revision of fees under the Electronic Transactions (Fees) Regulation)

Presentation by the Administration

7. At the invitation of the Chairman, Permanent Secretary for Commerce and Economic Development (Communications and Technology) ("PSCED(CT)") briefed members on the Administration's proposal to revise the fees for the recognition of Certification Authorities ("CAs") and digital certificates issued by the CAs under the Electronic Transactions (Fees) Regulation (Cap.553A), details of which were set out in the Administration's paper (LC Paper No. CB(4)201/12-13(05)).

Discussion

Digital time-stamping and technological advancement

8. Mr Charles MOK noted that the Electronic Transactions Ordinance ("ETO") (Cap.553) was amended in 2004, among other things, to give legal recognition to other forms of electronic signature, in addition to digital signature. To enable the legal framework to better keep pace with technological advancement, he urged the Administration to consider the need to introduce legislative amendments for digital time-stamping, which could provide strong legal evidence that electronic documents or transactions existed at a point-in-time and had not changed since that time. In line with the legislation of some other jurisdictions such as the United States, this would provide proof of electronic record integrity. Mr MOK also urged the Administration to review ETO in view of other technological advancement and to consider the concerns of the two recognized CAs, such as the signatory requirements of digital certificates issued by CAs.

9. In response, the Government Chief Information Officer ("GCIO") advised that the Administration had no immediate plan to introduce legislative amendments for digital time-stamping, but would consider any such needs in consultation with the industry. In terms of technological advancement, for example, the two recognised CAs had started to issue digital certificates with a longer key length from 1024 bits to 2048 bits to upgrade the level of security in performing electronic transactions. The

Administration would continue to consult the industry on their needs regarding electronic transactions.

Recognized certification authorities under the Electronic Transactions Ordinance

10. In response to Mr YIU Si-wing's enquiry about the small number of recognized CAs under the ETO, GCIO advised that the Administration had been promoting to the general public the importance of information security and the use of digital certificates for enhancing e-transaction security. With increased awareness of information security over the internet, demand for electronic authentication had increased in the public and private sectors in the past years. Some private businesses such as banks might not use digital certificates issued by recognized CAs but might resort to other forms of authentication to meet their own needs. The Administration would continue to promote the use of digital certificates to enhance e-transaction security to meet the market needs.

Summing up

11. The Chairman concluded that the Panel supported in principle the Administration's fees revision proposal.

IV. Licence fees reduction for Unified Carrier Licences, Public Radiocommunications Service Licences and Services-Based Operator Licences issued under the Telecommunications Ordinance (Cap. 106)

(LC Paper No. CB(4)201/12-13(06) -- Administration's paper on licence fees reduction for Unified Carrier Licences, Public Radiocommunications Service Licences and Services-Based Operator Licences issued under the Telecommunications Ordinance

LC Paper No. CB(4)201/12-13(07) -- Paper on licence fee for Unified Carrier Licences under the Telecommunications

Ordinance prepared by the
Legislative Council
Secretariat (background
brief))

LC Paper No. CB(4)223/12-13(01) -- Administration's paper
(*Chinese version only*) licence fees reduction for
(*tabled at the meeting and* Unified Carrier Licences,
subsequently issued via email on Public
10 December 2012) Radiocommunications
Service Licences and
Services-Based Operator
Licences issued under the
Telecommunications
Ordinance under the Office
of the Communications
Authority (power-point
presentation material))

Presentation by the Administration

12. At the invitation of the Chairman, Permanent Secretary for Commerce and Economic Development (Communications and Technology) ("PSCED(CT)") introduced to members the decision of the Government and the Communications Authority ("CA") in respect of licence fees reduction for Unified Carrier Licences ("UCLs"), Public Radiocommunications Service ("PRS") Licences (Public Radio Paging Services ("Paging")) and Services-Based Operator ("SBO") Licences (Class 3) and the legislative amendments that were proposed to effect the licence fee reduction for UCLs. Head, Regulatory Accounting & Finance, Office of the Communications Authority 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(4)201/12-13(06) and CB(4)223/12-13(01)).

Discussion

Benefits for consumers

13. Mr Charles Peter MOK expressed support for the Administration's proposal to reduce the licence fees for UCLs, PRS licences (Paging) and SBO licences (Class 3). He enquired about the possible benefits for consumers to be brought about by the proposal, and whether there was room for further reductions. Mr YIU Si-wing opined that the Administration should promote the positive message of the fee reductions to the public. Mr Christopher

CHUNG considered that the Office of the Communications Authority ("OFCA") should closely monitor the performance of the licencees so that the consumers would be protected from the problem of exorbitant mobile data charges or "bill shocks" and enjoy better service.

14. Deputy Director-General (Telecommunications), OFCA ("DDG(T)") advised that the mobile service fees in Hong Kong were among the lowest in the world. The proposed level of fees reduction was deemed not sufficiently significant as to provide any material benefit to consumers. He further advised that OFCA had been monitoring regularly the financial performance of the OFCA Trading Fund ("OFCATF") and would consider timely adjusting the relevant licence fees should there be room to do so. Over the past two decades, the former Office of the Telecommunications Authority had reduced the licence fees on a number of occasions. The last adjustment was made in 2008.

15. As regards Mr CHUNG's concern about the quality of mobile services, DDG(T) supplemented that the licencees were required to submit performance reports to OFCA on a quarterly basis for benchmarking with their performance pledges. Over the past few years, mobile operators had implemented various measures to help prevent bill shock. To increase consumer awareness of mobile data services, OFCA had also been organizing series of consumer education activities. The problem of exorbitant mobile data charges had been brought under control and was no longer a major issue of concern.

16. Ms Elizabeth QUAT enquired whether excessive profits generated by the OFCATF would be used for the benefit of the consumers. DDG(T) advised that OFCA had been allocating resources from OFCATF for various consumer protection and public education initiatives. One example of such initiatives was the launch of the Customer Complaint Settlement Scheme on 1 November 2012, which sought to resolve billing disputes in deadlock between telecommunications service providers and their customers through mediation. The performance of OFCATF was measured by the rate of return on the average net fixed assets. If OFCATF achieved a rate of return higher than the benchmark of 6.7% and the trend was expected to continue in the forthcoming years, OFCA would make timely effort to adjust the licence fees.

Number fee

17. Noting that 6.9 million subscriber numbers were returned from the licencees of UCL, PRS licences (Paging) and SBO licences (Class 3) as a result of the imposition of the number fee since 2008, the Chairman enquired

whether these numbers were reassigned to companies for the operation of cold call services, which had mushroomed in recent years.

18. DDG(T) advised that the aim of imposing the number fee was to encourage better utilization of number resources and to prolong the life span of the current 8-digit numbering plan, which was now estimated to be extended by eight years from the original anticipated depletion date of 2015. He added that most of the numbers returned from the licensees were reassigned to mobile service subscribers rather than cold call centres, which might be based inside or outside Hong Kong and constituted a very small fraction of the total demand for number resources.

19. The Chairman concluded that the Panel supported in principle the Administration's decision in respect of licence fees reduction for UCLs, PRS licences (Paging), SBO licences (Class 3) and the relevant legislative amendments.

V. Issues relating to the live broadcast of "Concern for Hong Kong's Future" by Asia Television Limited

(LC Paper No. CB(4)201/12-13(08) -- Administration's paper on issues relating to the live broadcast of "Concern about the Future of Hong Kong" by Asia Television Limited

LC Paper No. CB(4)201/12-13(09) -- Letter from Hon Claudia
(*Chinese version only*) MO dated 14 November 2012

LC Paper No. CB(4)201/12-13(10) -- Letter from Asia Television
(*English version only*) Limited dated 3 December 2012

LC Paper No. CB(4)201/12-13(11) -- Paper on the applications for domestic free television programme service licences prepared by the Legislative Council Secretariat (background brief)

LC Paper No. CB(4)201/12-13(12) -- Relevant newspaper cuttings)

Presentation by the Administration

20. At the invitation of the Chairman, Permanent Secretary for Commerce and Economic Development (Communications and Technology) ("PSCED(CT)") and Deputy Director-General (Broadcasting), Office of the Communications Authority ("DDG(B)") briefed members on the latest progress in the investigation by the Communication Authority ("CA") into issues relating to the live broadcast of "Concern for Hong Hong's Future" by Asia Television Limited ("ATV"). Details of the briefings were set out in the Administration's papers (LC Paper No. CB(4)201/12-13(08)).

Discussion

Complaints about "Concern for Hong Hong's Future"

21. Ms Elizabeth QUAT expressed regret that ATV's major investor, Mr WONG Ching, had declined to attend the meeting to answer members' questions on the matter. Noting media reports that Ms Claudia MO, in her capacity as a Legislative Council Member, was insulted in public by Mr WONG during the live broadcast of "Concern for Hong Kong's Future" on 11 November 2012, Ms QUAT enquired whether the Chairman would demand an apology from Mr WONG to Ms MO on behalf of the Panel. She also enquired if Mr WONG's remark about Ms MO being a person that caused trouble to Hong Kong in the live broadcast had constituted a contravention of the relevant provisions.

22. The Chairman advised that as Mr WONG Ching was only a major investor and did not hold any office in ATV, he was not in a position to demand an apology from Mr WONG to Ms MO on behalf of the Panel. Ms Claudia MO said that although she felt offended for having been treated as a subject of amusement during the rally, she did not see the need for Ms QUAT to ask the Chairman on her behalf to seek an apology from Mr WONG. Ms MO considered that the performance of a LegCo Member would be assessed by the public in an objective manner.

23. DDG(B) advised that the programme had been characterized by ATV as a personal view programme ("PVP"), which was a programme in which the programme hosts and individual contributors were allowed to put forward their own views. As the CA's investigation into "Concern for Hong Kong's Future" was still on-going, he was not in a position to comment on whether Mr WONG Ching's remark about Ms MO had constituted a contravention. In response to Ms Cyd HO's concern about whether the CA would have its own judgement as to the nature of "Concern for Hong Kong's Future", DDG(B)

said that the Broadcast Complaints Committee ("the Committee") under the CA would soon consider the complaints about "Concern for Hong Kong's Future" and make recommendations to the CA regarding such complaints pursuant to section 11 of the Broadcasting (Miscellaneous Provisions) Ordinance (Cap. 391). The Committee and the CA would make an independent judgement on whether the programme was a PVP, having regard to the relevant Generic Code of Practice on Television Programme Standards ("TV Programme Code") and the representations of ATV.

24. In response to Ms QUAT's enquiry about whether ATV had taken advantage of a loophole in the relevant provisions of the TV Programme Code by claiming that it was only relaying a programme organized by the Asia Club rather than the one which was produced by ATV, DDG(B) advised that as the CA was still awaiting the information from ATV on the relationship between ATV and the Asia Club, he was not in a position to comment on the matter.

25. Ms Cyd HO expressed concern about the criteria adopted by the Administration in considering applications for the use of the open space outside the Central Government Offices. She enquired whether in considering the application submitted by the Asia Club to use the venue for the rally, the Administration Wing of the Chief Secretary for Administration's Office was aware of the details of the application, including that the rally would be broadcast live on commercial television stations. PSCED(CT) undertook to relay Ms HO's concern and enquiry to the Administration Wing for response.

Admin

Sanctions imposed in relation to contraventions

26. Mr Ronny TONG noted that according to the provisions of the TV Programme Code regarding accuracy, impartiality and fairness, the licencees should make reasonable efforts to ensure that the factual contents of current affairs programmes were accurate. He enquired about the CA's criteria in the handling of some 42 000 complaints about various episodes of the television programme entitled "ATV Focus" that contained biased criticism of Scholarism, a group of pupils who protested against the now-shelved national education curriculum. In this regard, Ms Claudia MO considered that the warning issued by CA to ATV as penalty for contravention of Chapter 9 of the TV Programme Code in relation to "ATV Focus" was too lenient and out of proportion with the number of complaints received. She expressed concern whether the penalty, if any, to be imposed in relation to "Concern for Hong Kong's Future" would be as lenient and lacking in deterrent effect as in the case of "ATV Focus". She also expressed concern about the frequent re-

run of television programmes on ATV. Sharing a similar view, Ms Emily LAU and Mr CHAN Chi-chuen opined that there was a need to review the relevant provisions in the Broadcasting Ordinance ("the Ordinance") (Cap.562), the codes of practice issued by the CA and the licences conditions, to see if more stringent sanctions should be imposed on similar contraventions.

27. DDG(B) advised that while the CA was fully aware of the public concern about the programme contents of "ATV Focus", the CA would handle all complaints in accordance with the Ordinance, codes of practice issued by the CA and licence conditions, regardless of the number of complaints received about a particular subject. Paragraph 17(d) of Chapter 9 of the TV Programme Code provided that licencees should be mindful of the need for a sufficiently broad range of views to be expressed in any series of PVP. The CA would consider all relevant factors, including impact on the public, in making a decision on the sanctions to be imposed. The CA noted that the existing TV Programme Code did not expressly prohibit a licensee from expressing its views in a PVP and was silent on the format and the presentation of a PVP. Accordingly, the CA accepted ATV's representations that the episodes of "ATV Focus" could be regarded as PVP, albeit a marginal case, and thus would not be subject to the rule of due impartiality applicable to news and current affairs programmes. Whilst the CA had adhered to the relevant provisions of the TV Programme Code when considering the complaints about ATV, it remained mindful of the serious public concern about programmes presenting the views of a licensee in the form of a PVP. Accordingly, the CA would be reviewing the relevant parts of the TV Programme Code as a matter of priority in order to address the concern.

28. As for the re-run of television programmes, DDG(B) explained that there was currently no restriction on the frequency of re-run of programmes under the Ordinance or the relevant provisions of the TV Programme Code. Nevertheless, in view of public concern about the matter, the CA would also review the matter in considering the renewal of the existing domestic free television programme service licences which would expire in 2015. In considering licence renewal, individual licencees' record of contraventions would be taken into account.

29. Mr CHAN Chi-chuen expressed concern about the deterrent effect of the sanctions imposed by the CA and enquired about the maximum fine ever imposed on a contravention. In response, DDG(B) advised that the maximum financial penalty so far imposed on a domestic free television programme service licensee for contravention of the TV Programme Code was \$300,000, which was in relation to ATV's inaccurate news reporting on the death of the former national leader Mr JIANG Zemin on 6 July 2011. In

this connection, Mr Peter Charles MOK cautioned that a balance should be struck when the Administration reviewed the relevant provisions, so that the freedom of speech would not be prejudiced with the imposition of stricter provisions. DDG(B) agreed to take note of Mr MOK's view in carrying out the review.

Processing time for complaints

30. Ms Emily LAU expressed concern about the long processing time of the complaints about "ATV Focus", and whether the Office of the Communications Authority ("OFCA") had sufficient manpower to deal with the substantial number of complaints received about the programme. In this regard, Mr CHAN Chi-chuen agreed that OFCA should expedite its processing time of complaints.

31. DDG(B) advised that the complaints about "ATV Focus" were received in September 2012. The CA had received an exceptionally high volume of complaints in this case, which was over ten times of the average total number of around 3 000 complaints handled by the CA each year. For the sake of procedural justice, ATV had been given the opportunity to respond to the complaints. Despite this, the CA managed to deal with the complaints and reach a final decision in about three months, which was within CA's performance pledge of four months for more complex cases.

32. In response to Ms LAU's further enquiry about whether OFCA was overstaffed as it was able to deal with ten times its normal workload within three months, DDG(B) advised that the fact that OFCA had been able to deal with the sheer number of complaints within its performance pledge did not mean that it had any manpower surplus. Noting the strong public concern about the issue, OFCA had accorded top priority in processing the case and OFCA staff had worked overtime substantially in order to process the complaints within the shortest period possible. DDG(B) added that OFCA had been operating under very tight manpower constraints due to the increasing volume of complaints received.

Other issues

33. Mr Charles Peter MOK and Mr SIN Chung-kai expressed concern about media reports that according to the findings of a consultancy report submitted to the Executive Council, ATV might not be sustainable if new domestic free television programme service licences were issued, and that the Administration had formulated contingency plans to cope with situation in the event of ATV's failure in providing domestic free television programme service. In this regard, they enquired whether the Administration would

make open to the public the consultancy report to allay the public's concern.

34. PSCED(CT) advised that as the applications for new domestic free television programme service licences were still being considered by the Chief Executive in Council, it would not be appropriate for the Administration to comment on the alleged details of the applications.

35. Mr SIN Chung-kai expressed regret about the performance of ATV in recent years. He suggested that the Administration should put the television spectrum to auction when considering the renewal of the existing domestic free television programme service licences which were due to expire in 2015. The Administration noted Mr SIN's suggestion.

VI. Any other business

36. There being no other business, the meeting ended at 4:23 pm.

Council Business Division 4
Legislative Council Secretariat
1 February 2013