

立法會
Legislative Council

LC Paper No. CB(4)88/13-14
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by the Administration)

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Panel on Information Technology and Broadcasting

Minutes of special meeting
held on Tuesday, 25 June 2013, at 8:30 am
in Conference Room 1 of the Legislative Council Complex

Members present : Hon WONG Yuk-man (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 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 YIU Si-wing
Hon MA Fung-kwok, SBS, JP
Hon Charles Peter MOK
Hon CHAN Chi-chuen

Members attending : Hon LEE Cheuk-yan
Hon WU Chi-wai, MH
Hon Gary FAN Kwok-wai
Hon IP Kin-yuen

Members absent : Dr Hon Elizabeth QUAT, JP (Deputy Chairman)
Hon Steven HO Chun-yin
Hon SIN Chung-kai, SBS, JP
Ir Dr Hon LO Wai-kwok, BBS, MH, JP
Hon Christopher CHUNG Shu-kun, BBS, MH, JP

Public officers attending : Agenda item I

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)

Radio Television Hong Kong

Mr Roy TANG, JP
Director of Broadcasting

Mr TAI Keen-man
Deputy Director of Broadcasting (Programmes)

Attendance by invitation : Agenda item I

Radio Television Hong Kong Programme Staff Union

Ms Janet MAK
Former Chairperson of Union

Ms CHOI Toi-ling
Committee Member

Civic Party

Ms Bonnie LEUNG
Exco Member

Hong Kong In-Media

Mr WONG Chun-pong
Executive Editor

Democratic Party

Mr OR Yiu-lam
Central Committee Member

**Democratic Alliance for the Betterment and
Progress of Hong Kong**

Mr Wade CHAN
Deputy Spokesperson

The Lion Rock Institute

Miss Janice Rui-xian FUNG
Research Assistant

Hong Kong Professional Teachers' Union

Mr WONG Hak-lim
Vice President

撐「港台編輯自主」前港台員工群組

Ms WONG Kit-wai
Spokesperson

Labour Party

Mr KWOK Wing-kin
Vice-General Secretary

Ms Mabel LAU

Ms LAM Yan-pui

Mr Anthony YIU

PSB Now!

Mr LAW Yuk-kai
Spokesperson

Hong Kong Journalists Association

Mr LUI Tsz-lok
Convener, Press Freedom Subcommittee (Hong
Kong Journalists Association)

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

Staff in attendance : Mr Bonny LOO
Assistant Legal Adviser 3

Ms Anki NG
Council Secretary (4)3

Miss Mandy LAM
Legislative Assistant (4)2

Miss Denise LAU
Clerical Assistant (4)2

I. Issues relating to the editorial independence of Radio Television Hong Kong

Welcoming remarks by the Chairman

The Chairman welcomed representatives of the Administration and the Radio Television Hong Kong ("RTHK") and deputations to the meeting. He 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) Ordinance (Cap. 382) ("LCPPO"), and their written submissions were not covered by the said Ordinance. He also reminded members of Rules 83A and 84 of the Rules of Procedure on declaration of interest.

Presentation by the Administration

2. At the invitation of the Chairman, Permanent Secretary for Commerce and Economic Development (Communications and Technology) ("PSCED (CT)") briefed members on the background and the Government's response to media reports on issues relating to the editorial independence of RTHK in March 2013. Details of the briefing were set out in the Administration's paper (LC Paper No. CB(4)793/12-13(01)). PSCED(CT) said that in September 2009, the Government decided on the way forward on the development of public service broadcasting in Hong Kong and RTHK had been tasked to take up the mission to serve as the public service broadcaster for Hong Kong. Having regard to the greatly expanded role of the new RTHK and to further enhance its editorial independence, the Government promulgated the RTHK Charter ("the Charter") in August 2010. The Charter enshrined the editorial independence of RTHK and set out the public purposes and mission of RTHK.

3. PSCED(CT) further said that as enshrined in the Charter, the Director of Broadcasting ("D of B"), being the editor-in-chief, was responsible for ensuring that a system of editorial control in accordance with RTHK's Producers' Guidelines was in place to provide accurate, impartial and objective news, public affairs and general programming. D of B was also responsible for making the final editorial decisions in RTHK and was accountable for editorial decisions taken by RTHK programme producers.

4. PSCED(CT) added that in March 2013, there were media reports of certain allegations of interference with the editorial independence of RTHK by D of B and the acting appointment of a RTHK staff being affected because of alleged failure to carry out political mission. Soon after the media reports, D of B had publicly explained the issues involved in detail and made clarifications to the allegations through different channels to allay staff and public concern. PSCED(CT) stressed that if a civil servant felt that he/she had been directed to act in a way that he/she considered was in conflict with the political neutrality of the civil service, he/she might lodge a complaint in accordance with the established procedures. The Government would continue to handle staff management and promotion matters in a fair and impartial manner in accordance with the established mechanism.

Presentation by deputations

*Ms Janet MAK, Radio Television Hong Kong Programme Staff Union
[LC Paper No. CB(4)793/12-13(07)]*

5. Ms Janet MAK expressed the views of Radio Television Hong Kong Programme Staff Union ("RTHKPSU") as detailed in its submission. She said that D of B, an Administrative Officer, had made several unprofessional editorial decisions, and he had also allegedly asked RTHK staff members to carry out "political missions". She urged the Government to find a suitable candidate with the relevant professional knowledge to head RTHK.

Ms Bonnie LEUNG, Civic Party

6. Ms Bonnie LEUNG said that D of B had interfered with the editorial independence of RTHK, as he had allegedly criticized the decision of the production team of "City Forum" to put empty chairs on the panel to represent absent senior Government officials, suggested that "Headliner" should be broadcast by Asia Television Limited, exerted political pressure on RTHK staff in demanding them to give an explanation for using Nazi characters in "Headliner", and asked Mr SZE Wing-yuen, the Acting Assistant Director of Broadcasting (Television and Corporate Businesses) ("Mr SZE"), to carry out "political missions". She was of the view that D of B had no professional knowledge to head RTHK. Since the assumption of office of D of B, Mr Roy TANG had been taking steps to turn RTHK into a Government mouthpiece. She urged the Legislative Council ("LegCo") to invoke the powers under the LCPPO to inquire into the alleged handling of promotion matters of Mr SZE.

Mr WONG Chun-pong, Hong Kong In-Media
[LC Paper No. CB(4)793/12-13(03)]

7. Mr WONG Chun-pong expressed the views of Hong Kong In-Media as detailed in its submission. He opined that D of B had lacked the relevant experience to maintain the editorial independence of RTHK. He urged D of B to step down and the Government to find a suitable candidate with the relevant professional knowledge to head RTHK.

Mr OR Yiu-lam, Democratic Party
[LC Paper No. CB(4)831/12-13(01)]

8. Mr OR Yiu-lam expressed the views of the Democratic Party as detailed in its submission. He said that D of B had interfered with the editorial independence of RTHK and created "white terror" among RTHK staff. He urged the Government to refrain from appointing an Administrative Officer as D of B and to assist RTHK in serving as an independent public service broadcaster for Hong Kong.

Mr Wade CHAN, Democratic Alliance for the Betterment and Progress of Hong Kong
[LC Paper No. CB(4)843/12-13(01)]

9. Mr Wade CHAN expressed the views of the Democratic Alliance for the Betterment and Progress of Hong Kong ("DAB") as detailed in its submission. He said that DAB was monitoring the implementation of the principles in the Charter and hoped that RTHK would uphold the principles of freedom of speech and freedom of press. He urged the press to maintain credibility and public confidence and to improve the quality of public broadcasting service.

Miss Janice Rui-xian FUNG, The Lion Rock Institute

10. Miss Janice Rui-xian FUNG said that The Lion Rock Institute was against using public funds to pay the operational costs of RTHK, and in support of the separation of RTHK from the Government. She stressed the importance of the principle of freedom of speech, and said that RTHK should maintain its editorial independence and uphold the principles of freedom of speech and freedom of press. In order to stop RTHK from turning into a Government mouthpiece, she urged the public to assist RTHK to serve as an independent public service broadcaster for Hong Kong.

Mr WONG Hak-lim, Hong Kong Professional Teachers' Union
[LC Paper No. CB(4)831/12-13(03)]

11. Mr WONG Hak-lim expressed the views of the Hong Kong Professional Teachers' Union ("HKPTU") as detailed in its submission.

Ms WONG Kit-wai, 撐「港台編輯自主」前港台員工群組
[LC Paper No. CB(4)831/12-13(04)]

12. Ms WONG Kit-wai expressed the views of 撐「港台編輯自主」前港台員工群組 as detailed in its submission.

Mr KWOK Wing-kin, Labour Party
[LC Paper No. CB(4)856/12-13(01)]

13. Mr KWOK Wing-kin expressed the views of the Labour Party as detailed in its submission.

Ms Mabel LAU

14. Ms Mabel LAU was of the view that RTHK should maintain its editorial independence to serve as the public service broadcaster for Hong Kong, and to enable the general public to have an insight into certain social phenomena through the broadcasting service provided by RTHK. She said that there should be limits and guidelines to set the editorial stance of RTHK, and that RTHK should reveal the true facts of the incidents for the public's own assessment and judgment.

Ms LAM Yan-pui

15. Ms LAM Yan-pui said that RTHK should abide by the editorial principles as set out in the Charter. In this connection, RTHK should entrust their programme staff to make their own editorial decisions. The various RTHK programmes, namely "Headliners", "City Forum" and "LegCo Review", had analyzed social events and policies from different angles and perspectives. They were not redundant programmes and their contents as set by the programme team should not be cut or changed by D of B.

Mr Anthony YIU

16. Mr Anthony YIU said that RTHK should follow the editorial principles and fulfill the public purposes and mission of RTHK as set out in the Charter. The Government should provide the relevant and necessary resources to facilitate RTHK to achieve its mission in the Charter. As editor-in-chief of RTHK, D of B had failed to ensure that RTHK would provide accurate, impartial and objective news, public affairs and general programming. The recent editorial controls exercised by D of B over the RTHK programme staff had violated the editorial principles as set out in the Charter.

Mr LAW Yuk-kai, PSB Now!

17. Mr LAW Yuk-kai said that public service broadcasting in Hong Kong had signified the development of the principle of freedom of speech, and as RTHK was public funded, it should be under public monitoring and should safeguard public interests. The independence of RTHK as a public service broadcaster should be maintained so that accurate, impartial and objective programmes would be broadcast. When compared to commercial broadcasting, public service broadcasting should be free from political or economic interference. However, the human resources management and administration of RTHK, which was monitored by a Government Bureau, had undermined the independence of RTHK. It seemed that RTHK was under

political pressure in recent years as the mission of the incumbent Chief Executive was to keep RTHK under control. The allegation that D of B had asked Mr SZE to carry out political mission had further undermined the independence of RTHK. The lack of media experience of D of B had created further controversies.

*Mr LUI Tsz-lok, Hong Kong Journalists Association
[LC Paper No. CB(4)831/12-13(02)]*

18. Mr LUI Tsz-lok expressed the views of the Hong Kong Journalists Association ("HKJA") as detailed in its submission.

The Administration's response

19. At the invitation of the Chairman, PSCED(CT) reiterated that the Administration would strive to maintain the editorial independence of RTHK. The Administration had no intention to regularize the appointment of Administrative Officers to be the D of B. Regarding the independence of RTHK, the matter had been thoroughly discussed previously and the Administration would concentrate on the way forward for RTHK. Regarding the promotion of Mr SZE, PSCED(CT) advised that the Government had in place established mechanism and procedures to handle staff management and promotion matters of civil servants in a fair and impartial manner. It was inappropriate for the Administration to comment on any individual civil service appointment case.

20. In response to the deputations' request to invoke the LCPPO to inquire into the relevant allegations of interference with the editorial independence of RTHK so as to afford legal protection to Mr SZE and other RTHK staff to speak out on the matter, D of B said that civil servants were expected to speak the truth at any time in order to do justice to all parties concerned. As truth should be a complete defense for any allegations of defamation, he did not see why Mr Sze should feel inhibited from speaking out. D of B further advised that he had told the media in March 2013 that he would not exercise his rights in civil litigation in relation to any allegations made against him by RTHK staff.

21. D of B supplemented that soon after the release of the media reports, he had publicly explained the issues involved in detail and made clarifications to the allegations through different channels to allay staff and public concern. D of B considered that the allegations of his intervention in editorial matters and the dispute between him and Mr SZE about the editorial issues of RTHK

programmes were totally unfounded and none of these allegations had been directly confirmed by Mr SZE. Mr SZE had only stated in his public interviews that he felt "political pressure", not that he was required to carry out "political missions".

Discussion

Performance of the Director of Broadcasting as head of RTHK

22. Ms Claudia MO raised concern that the D of B lacked professional knowledge to carry out the mission of RTHK, and his explanations to the allegations made against him had failed to address the concerns of RTHK staff. Mr LEUNG Kwok-hung expressed a similar concern. Deputy Director of Broadcasting (Programmes) advised that RTHK management had all along been striving to uphold the integrity of RTHK as the public service broadcaster for Hong Kong, and to maintain the professionalism of RTHK staff.

23. In response to Mr Charles Peter MOK's enquiry about the Administration's comment on the performance of Mr Roy TANG as the D of B and the promotion mechanism of and training provided to RTHK staff to take up a higher rank of post, PSCED(CT) advised that the Administration would not openly comment on the performance of a civil servant. The Administration had in place established mechanism and procedures to handle staff management and promotion matters of civil servants in a fair and impartial manner.

24. Regarding the Administration's response that it had no intention to regularize the appointment of Administrative Officers to be the D of B, Mr CHAN Chi-chuen enquired about the transparency of the recruitment of D of B, and whether the Administration was in the process of recruiting a new D of B to replace Mr Roy TANG as a result of his possible appointment to a higher rank of post in future. PSCED(CT) advised that the Administration had explained to LegCo in 2011 about the reasons for appointment of an Administrative Officer to be the D of B, and the relevant background and recruitment process. In general, a vacancy would be filled by internal promotion, failing which open recruitment would be conducted. It was inappropriate for the Administration to openly comment on the possible speculations on the promotion or replacement of a civil servant.

25. Mr James TO expressed concern about the appointment of an Administrative Officer as the D of B and enquired whether the Administration would consider conducting an internal promotion exercise to

select in-house staff to fill the post of D of B after the departure of Mr Roy TANG, given that the post of D of B was a sensitive one and RTHK staff possessed the relevant experience and expertise. PSCED(CT) reiterated that the Administration had no intention to regularize the appointment of Administrative Officers to be the D of B, and when a vacancy arose, the Administration would fill the post in accordance with the relevant established procedure.

Allegation of political interference by the Director of Broadcasting

26. Ms Emily LAU and Mr Paul TSE enquired whether Mr SZE was still in his acting post and whether he had made an appeal to the Civil Service Bureau ("CSB") on his not being promoted. PSCED(CT) advised that Mr SZE was still in his acting post. It was not appropriate for the Administration to comment on any individual case. Ms LAU also enquired about how D of B would deal with differences between RTHK programme staff and himself in relation to making editorial decisions in future, in circumstances such as the "empty chair" incident. D of B advised that the "empty chair" incident had been clearly explained in Annex B to the Administration's paper (LC Paper No. CB(4)793/12-13(01)). Future editorial decisions would be made in accordance with RTHK's Producers' Guidelines.

27. Mr MA Fung-kwok opined that there was no concrete evidence to support the allegations that D of B had not been able to perform his duties, nor he was interfering with the editorial independence of RTHK. Mr MA was in support of RTHK's programmes and urged the management of RTHK to maintain the quality of RTHK programmes. He did not agree that the decisions made by D of B in handling the "empty chair" incident and cancelling the programme "LegCo Review" were incompatible with the mission of RTHK.

28. Mr IP Kin-yuen enquired whether D of B would be in support of a proposal to invoke the powers under the LCPPO to inquire into the alleged handling of promotion matters of Mr SZE, so that Mr SZE could speak the truth and D of B would have an opportunity to defend himself. D of B said that he would support RTHK staff to speak the truth anytime, anywhere. He was also of the view that RTHK staff had a high standard of professional integrity and journalistic training. They should not need to be afforded protection under the LCPPO to speak the truth.

29. Ms Cyd HO expressed concern about a Chief Engineer post in RTHK which had been left vacant for about a year. The qualification required for the post was a chartered engineer who would be responsible for monitoring

the building and construction work of RTHK, including the new Broadcasting House. As the post was under the supervision of Mr SZE, who was not a professional in the engineering field, she queried whether this was a means to exert pressure on Mr SZE who was responsible for supervising, inter alia, the construction of the new Broadcasting House. She asked whether D of B had taken any plan to recruit the necessary engineering staff. D of B advised that the vacancy was left vacant since the relevant staff left in November 2012 and RTHK had been conducting recruitment exercises for various grades of engineers.

30. In response to Mr LEE Cheuk-yan's enquiry, D of B advised that the allegations that he had asked RTHK staff to carry out political missions and that Mr Sze was not promoted owing to his refusal to carry out political missions were totally unfounded. PSCED(CT) added that Mr SZE's acting appointment was under consideration by the CSB and she had no information on the duration of Mr SZE's acting post.

Deputations' responses

31. Ms CHOI Toi-ling of RTHKPSU said that the recent RTHK incidents had shown that Mr Roy TANG was not a suitable person for the post of D of B as he did not possess the relevant expertise, and he had not addressed the concerns of RTHK staff.

32. Mr Wade CHAN of DAB opined that Mr Roy TANG, as an Administrative Officer, could perform his duties as D of B. He urged RTHK to maintain its programme quality and to fulfill its mission as the public service broadcaster.

33. Mr WONG Hak-lim of HKPTU said that there was factual evidence to support that D of B was interfering with the editorial independence of RTHK, such as the "empty chair" incident.

34. Mr LUI Tsz-lok of HKJA said that Mr SZE had expressed in his interview on 11 March 2013 that he could feel the pressure from D of B for him to perform political missions. D of B said that he had checked the verbatim record of the interview. Mr Sze did not, as suggested by Mr LUI, say that he was under pressure from D of B to perform political missions.

35. Mr LAW Yuk-kai of PSB Now! said that the United Nations Human Rights Committee had expressed its views on the implementation of human rights in Hong Kong after its recent hearing. It urged Hong Kong to abolish restrictions over the freedom of speech and to abide by the principles laid down by the Committee. One of the principles of the Committee was that a

public service broadcaster should be independent from the Government.

(To allow sufficient time for discussion, the Chairman directed that the meeting be extended for 15 minutes.)

Motion moved by Ms Claudia MO

36. Ms Claudia MO proposed the following motion:

"本事務委員會認為應以《權力及特權法》徹查廣播處長鄧忍光於處理施永遠升遷事宜中，涉嫌干預港台編輯自主一事。"

(Translation)

"That this Panel considers that the Legislative Council (Powers and Privileges) Ordinance should be invoked for a thorough inquiry into the allegations of interference with the editorial independence of Radio Television Hong Kong by Mr Roy TANG, Director of Broadcasting, in handling the matter of the promotion of Mr SZE Wing-yuen."

37. The Chairman considered that the proposed motion was directly related to the agenda item under discussion and members agreed that the motion should be dealt with at the meeting. The Chairman then put the motion to vote. Of the nine members present, six members voted for the motion and two members against the motion. The Chairman declared that the motion was passed.

(Post-meeting note: The wording of the motion was circulated to members vide LC Paper No. CB(4)835/12-13 on 26 June 2013.)

38. The Panel agreed that if its proposal for invoking the powers conferred by the LCPPO for the purpose of the inquiry was supported by the House Committee, it was for the House Committee to decide whether the Panel itself or a select committee to be appointed under the Rules of Procedure should conduct the inquiry and be authorized to exercise the powers under the LCPPO in the performance of its duties.

II. Any other business

39. There being no other business, the meeting ended at 10:44 am.

Council Business Division 4
Legislative Council Secretariat
29 October 2013