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**Panel on Information Technology and Broadcasting**

**Meeting on 9 November 2015**

**Background brief on the review of the Telecommunications Ordinance and  
the Broadcasting Ordinance arising from the implementation of the  
Communications Authority Bill**

**Purpose**

This paper summarizes Members' views and concerns related to the consideration of the Communications Authority Bill ("the Bill") which sought to ensure consistent and effective regulation of the broadcasting and telecommunications sectors on the merging of the Telecommunications Authority ("TA") and the Broadcasting Authority ("BA") into the Communications Authority ("CA").

**Background**

2. Before CA was established, BA was responsible for the regulation of television and sound broadcasting services in accordance with the Broadcasting Ordinance (Cap.562) ("BO") and Part IIIA of the Telecommunications Ordinance (Cap.106) ("TO") respectively. TA has the statutory power to regulate the telecommunications sector and set the technical standards for the broadcasting services. The Director-General of Telecommunications was designated as TA under section 5 of TO.

3. Rapid advancement in technology was blurring the traditional boundaries between telecommunications and broadcasting, leading to the convergence of the two markets. The Administration considered that there was a need to restructure the regulatory institutional arrangements for the telecommunications and broadcasting sectors, and had conducted a review on the overall regulatory regime and legislation to keep pace with technological development.

4. In March 2006, the Administration consulted the public on the proposed merger of BA and TA into CA, for the efficient, effective and coordinated regulation of a converging electronic communications sector. The Administration proposed a two-staged approach:

- (a) a new institution, CA, should be established to enforce the existing provisions of BO, TO and other relevant ordinances, and to administer all matters currently under the purview of BA and TA; and
- (b) CA would be tasked to review and rationalize, together with the Administration, BO and TO to ensure consistent and effective regulation of the broadcasting and telecommunications sectors.

5. According to the Administration, there was widespread and overwhelming support for the proposal of establishing CA during the consultation. The Administration subsequently introduced the Bill into the Legislative Council ("LegCo") on 30 June 2010. The Bill sought to:

- (a) establish CA;
- (b) transfer the functions of BA and TA to CA;
- (c) dissolve BA; and
- (d) provide for incidental and connected matters.

6. The Bill was passed by LegCo on 30 June 2011 and the Communications Authority Ordinance (Cap. 616) came into operation on 1 April 2012.

### **Deliberations of the Bills Committee**

7. A Bills Committee was formed to study the Bill. During the deliberation of the Bills Committee, members raised concerns about the adoption of the staged approach to merge BA and TA into CA. Some members of the Bills Committee considered that a comprehensive review of the relevant outdated ordinances and regulations governing the broadcasting and telecommunications sectors should be conducted in parallel with the setting up of CA. The Administration explained that reviewing the legislative frameworks in tandem with the setting up of CA would be difficult and would

delay the process of establishing CA. The Administration maintained that the staged approach would be more pragmatic and would enable the Administration to modernize the two regulatory regimes more efficiently.

8. The Administration assured the Bills Committee that the Administration would review TO and BO as a matter of priority immediately upon the establishment of CA. The Secretary for Commerce and Economic Development had affirmed this commitment during the resumption of Second Reading debate on the Bill. The Administration had indicated that the review would cover issues including cross media ownership and foreign ownership restrictions, licensing authorities and appeal mechanisms, and the regulatory regimes for the telecommunications and broadcasting sectors. A more detailed plan would be formulated together with CA on the areas to be reviewed and the relevant timetable.

### **Latest position**

9. The Administration will brief the Panel on Information Technology and Broadcasting on 9 November 2015 on the proposed creation of one supernumerary Administrative Officer Staff Grade B post and one supernumerary Administrative Officer Staff Grade C post to lead a team in reviewing TO and BO.

### **Relevant papers**

10. A list of the relevant papers with their hyperlinks is at:  
<http://www.legco.gov.hk/yr09-10/english/bc/bc10/general/bc10.htm>

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