

Bills Committee on Telecommunication (Amendment) Bill 1999

Commencement of the Bill

Background

At the Bills Committee meeting on 16 November 1999, the Administration informed Members that some provisions of the Bill would not commence operation until enactment of the relevant subsidiary legislation. The Administration agreed to provide the Bills Committee with further information on the arrangement.

2. It is our intention to effect the Bill as soon as possible so that the improved regulatory regime can be in place to facilitate the development of the telecommunications industry. The only issue being considered is the seamless transition of the new and existing licensing regimes. The new licensing regime cannot come into operation until two pieces of subsidiary legislation have been passed as follows:

- i) we need to repeal, by way of an amendment regulation, the prescribed forms of the licences under the existing Telecommunication Regulations; and
- (ii) under new section 7(3) the Secretary for Information Technology and Broadcasting will, by regulation, prescribe the general conditions for a carrier licence.

We cannot repeal the prescribed forms of the licences until the new licensing regime is in place. On the other hand, there must not be any legal vacuum in TA's authority to issue licences. We must synchronise the transition.

3. Besides, under Clause 5 of the Bill, it would be unlawful to provide telecommunications services (e.g. provision of cordless telephones or phone cards) without licences under the Ordinance. These services hitherto not regulated by the Telecommunication Ordinance will become regulated under the new class licence regime. We therefore should not commence Clause 5, otherwise the persons currently providing

the telecommunications services would be rendered unlawful, before the appropriate class licences are in place to regulate them.

4. We will not be able to pass the regulations within this legislative session. We plan to table the regulations at the Legislative Council when the Council resumes operation in the next session. The new class licences, upon consultation with the industry, is expected to be ready for implementation by then. To commence the new licencing regime at the same time is not only a legal and administrative necessity, it will also enable the telecommunications industry, which includes small operators and new entrants, overseas and local, to operate smoothly.

Commencement of the Bill upon Enactment with Certain Exceptions

5. In the light of the above, the entire Bill will be commenced immediately after enactment except the provisions relating to the new licensing regime. These include section 6D(2)(a) under Clause 3, the repeal of the existing section 7 as well as sections 7(1), (4)-(10) and 7A under Clause 4, Clause 5 (except section 8(a)(i)) and Clause 17(a), (ab) and (ac). We will introduce CSAs to section 1(2) and 1(3) as set out in Annex.

Clause

Amendment Proposed

1(2)

By deleting the clause and substituting -

“(2) Subject to subsection (3), this Ordinance shall come into operation on the day it is published in the Gazette.

(3) Section 3 (to the extent that it relates to section 6D(2) (a) of the principal Ordinance as amended by this Ordinance), section 4 (to the extent that it relates to the repeal of section 7 of the principal Ordinance and to sections 7(1) and (4) to (11) inclusive and 7A of the principal Ordinance as amended by this Ordinance), section 8(a) (ii) and (b) and section 17(a), (ab) and (ac) shall come into operation on a day to be appointed by the Secretary for Information Technology and Broadcasting by notice in the Gazette.”.