

HONG KONG SOCIETY OF ACCOUNTANTS

(Incorporated by the Professional Accountants Ordinance, Cap. 501)

CB(1)821/99-00

香港會計師公會



BY FAX AND BY POST
(2869 6794)

Our Ref.: C/COG(N3), M0231

17 January 2000

Mr. Sin Chung-Kai,
Chairman,
LegCo Bills Committee on
Telecommunication (Amendment) Bill 1999,
Legislative Council Secretariat,
3rd Floor, Citibank Tower,
No. 3 Garden Road,
Central, Hong Kong.

Dear Mr. Sin,

Telecommunication (Amendment) Bill 1999

We refer to the Administration's response to our earlier submission (CB(1)46/99-00(01)) and the contents of the table entitled "Summary of deputations views and relevant comments on major clauses of the Telecommunication (Amendment) Bill 1999", and we should like to make the additional comments on them indicated below.

Clause 18

It is evident from the Administration's response and from the summary of views, that the powers that are quoted as comparable powers in the hands of the UK authorities are in fact intended for a different purpose. The powers referred to under the UK Competition Act 1998, in paper CB(1)46/99-00(01), relate to the entry of premises in connection with an investigation. Section 35A, as stated in the summary table, "is not intended to investigate offences under the Ordinance". As also noted in the same place, a power in relation to investigation of offences already exists under s35(1) of the Telecommunication Ordinance.

This being the case, we should like to reiterate our original concerns that this provision is overly wide and appears to be out of step with comparable provisions in other Hong Kong legislation.

Clause 23

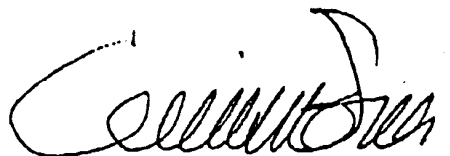
The Administration's response focuses almost entirely on the need for access to documents held by third parties for the purpose of obtaining information about anti-competitive practices. However, as we have pointed out, the actual provision is not constrained in this way but is much more general. If the purpose of the provision is intended to be more limited, then it should be suitably circumscribed to reflect this. If the Administration believes that an open-ended provision is required then this needs to be justified.

The fact that this clause has the support of some of the telecommunications operators adds little weight to the argument, as the proposed powers contained in it will not be invoked against the operators but against third parties. The commercial interests of the operators and the desire of third parties to limit statutory intrusions into their privacy do not necessarily coincide.

Furthermore the provision imposes no obligation of confidentiality upon the Telecommunications Authority. Such an obligation should be included.

We hope that the Bills Committee will be able to take these points into account in its consideration of the Bill.

Yours sincerely,



LOUIS L.W. WONG
REGISTRAR

HONG KONG SOCIETY OF ACCOUNTANTS

LW/PMT/ay

c.c. Eric Li