

香港電訊的信頭

Letterhead of CABLE & WIRELESS HKT

By Mail and Fax 2869 6794

Miss Salumi Chan

Clerk to Bills Committee

Bills Committee on Electronic Transactions Bill

Legislative Council Secretariat

8 Jackson Road

Central

Hong Kong

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Date: 16 November 1999

Dear Miss Chan,

Bills Committee on Electronic Transactions Bill

We are pleased to submit our comments on the Administration's response (LC Paper No. CB (1) 343/99-00(05)) as attached to the Bills Committee.

Thank you.

Yours sincerely,

EVA CHAN

Manager, Regulatory Affairs

Cable & Wireless HKT (CWHKT)'s Comments on ITBB's Response to CWHKT's Submission

We note the ITBB's response to our submission and appreciate that some of our comments are accepted and will be further considered by ITBB. Nevertheless, we would like to provide our comments on the following points which require further clarification.

1. Appeal

We appreciate that the Government will propose an amendment to the Bill for Secretary for Information Technology and Broadcasting (SITB) to give reasons for his decision on the appeal with a view that it will facilitate the appellant to seek judicial review. However, as we have already stated in our submission to the Bills Committee, from the legal viewpoint, judicial review is not the same as an appeal on the merits. Judicial review or litigation is expensive and, therefore, a Certification Authority (CA) may consider not appealing to court against the decision of the SITB based on a cost and benefit analysis. CWHKT maintains its position that a right to appeal to an independent body against the decision of the SITB and the Director of Information Technology Service (DITS) should be provided under the Bill.

2. Disclosure of Private Keys

While we note that SITB and the DITB will not have access to the private keys of individual subscribers under the Bill as stated in ITBB's response, we consider that it may have overlooked the possibility that the CAs would have access to the private keys of the subscribers when the subscribers' key pairs are generated by the CAs. It is our understanding that the Bill does not stipulate that the private key of an individual subscriber must not be generated by the CAs.

3. Suspension

We seek to clarify an issue arising from the suspension of recognition. As noted in ITBB's response, a CA may appeal under clause 27 of the Bill against the suspension decision and the suspension will not take effect until the expiry of 7 days from the date on which the SITB confirms the suspension on appeal. We seek for clarification about the liability issue for transactions made in the period in between the time when a CA receives a notice of suspension from the DITS and when the SITB confirms the suspension decision of the DITS. Similar question applies in the case of revocation of recognition.