

LC Paper No. CB(1)265/99-00
(These minutes have been
seen by the Administration)

Ref : CB1/PL/ITB

Legislative Council
Panel on Information Technology and Broadcasting

Minutes of meeting
held on Monday, 10 May 1999, at 2:30 p.m.
in the Chamber of the Legislative Council Building

- Members present** : Hon SIN Chung-kai (Chairman)
Hon MA Fung-kwok (Deputy Chairman)
Hon Kenneth TING Woo-shou, JP
Ir Dr Hon Raymond HO Chung-tai, JP
Hon Eric LI Ka-cheung, JP
Hon Fred LI Wah-ming
Prof Hon NG Ching-fai
Hon Howard YOUNG, JP
Hon YEUNG Yiu-chung
Hon Emily LAU Wai-hing, JP
Hon Timothy FOK Tsun-ting, JP
Hon LAW Chi-kwong, JP
- Members attending** : Hon NG Leung-sing
Hon Andrew CHENG Kar-foo
- Members absent** : Hon David CHU Yu-lin
Hon James TO Kun-sun
Hon CHOY So-yuk
- Public officers attending** : For Items III & IV

Mr K C KWONG
Secretary for Information Technology &
Broadcasting

For Items III and V

Mr Eddy CHAN
Commissioner for Television and Entertainment
Licensing

For Item III

Mr William TANG
Principal Assistant Secretary for Information
Technology & Broadcasting (Y2K)

Mr K H LAU
Director of Information Technology Services

Ms Ava CHIU
Assistant Commissioner for Television and
Entertainment Licensing (Broadcasting)

Mr CHU Pui Hing
Deputy Director of Broadcasting

Mr Simon F K CHU
Government Records Service Director

Mr MOK Yun-chuen
Chief Executive Officer
Office of the Ombudsman

For Item IV

Mrs Jessie TING
Deputy Secretary for Information Technology
and Broadcasting (2)

Mr Anthony S K WONG
Director-General of Telecommunications

For Item V

Mrs Rita LAU
Deputy Secretary for Information Technology
and Broadcasting (1)

Miss Joanna CHOI
Principal Assistant Secretary for Information
Technology and Broadcasting (B)

Mr Gary YEUNG
Assistant Commissioner for Television and
Entertainment Licensing (Entertainment)

Clerk in attendance : Mr Andy LAU
Chief Assistant Secretary (1)3

Staff in attendance : Ms Sarah YUEN
Senior Assistant Secretary (1)4

I Confirmation of minutes of meeting and matters arising
(LC Paper No. CB(1)1176/98-99)

The minutes of the Panel meeting held on 8 February 1999 were confirmed.

2. The Chairman drew members' attention to the Director of Administration's written response to the Panel's request for papers on the Cyberport project considered by the Executive Council. The reply was tabled at the meeting and subsequently circulated to members vide LC Paper Nos. CB(1)1311 and 1317/98-99. He also advised members that the Administration would provide a copy each of its reply to the letter from the representative of a group of developers, Vincent T. K. Cheung, Yap & Co., and an extract of the relevant parts of the consultancy report by Arthur Andersen Business Consulting together with an estimates of the consultancy.

II Date and items for discussion for next meeting

3. Members agreed to discuss measures to promote the development of the film industry and to enhance Hong Kong's position as a film production centre at the next meeting to be held on 14 June 1999, at 2:30 p.m.

(Post-meeting note: The agenda was later revised to include the item on the Cyberport project.)

4. Members also agreed to revisit the Year 2000 compliance work within Government and non-Government organizations providing essential services, particularly on the formulation of territory-wide contingency plans in July 1999.

III Progress of the Year 2000 (Y2K) compliance exercise under the purview of the Information Technology and Broadcasting Bureau, and in the Office of the Ombudsman and Government Records Service Division, Chief Secretary for Administration's Office

(LC Paper Nos. CB(1)1263/98-99(01) to (03) - information papers provided by the Administration)

5. Members noted the checklist on the key issues related to the Y2K problem prepared by the Secretariat. The checklist was tabled at the meeting and circulated thereafter vide LC paper No. CB(1) 1310/98-99(01).

6. The Secretary for Information Technology and Broadcasting (S/ITB) briefed members on the information paper (LC Paper No. CB(1) 1263/98-99 (01)) which set out the progress of Y2K compliance work under the purview of the Information Technology and Broadcasting Bureau.

7. Members noted the Y2K compliance work of the Office of The Ombudsman and the Government Records Service Division of the Chief Secretary for Administration Office and raised no further questions on their work.

Y2K compliance progress

8. Responding to Mr Howard YOUNG's question about the variation in the progress of the Y2K rectification work between Asia Television Ltd. and Television Broadcasts Ltd. (TVB) which were 98% and 65% respectively, S/ITB clarified that according to the latest report in mid April 1999, TVB had already completed 94% of the rectification work. He further assured members that the Television and Entertainment Licensing Authority (TELA) was regularly reviewing the Y2K compliance position of these two television broadcasting companies.

9. Addressing the Chairman's concern about the compliance position of the four fixed telecommunications network services (FTNS) operators, S/ITB briefed members on the latest compliance positions of the concerned operators. He advised that as at 15 April 1999, the respective compliance figures for Hutchison Communications Ltd., Hong Kong Telephone Company Ltd., New T&T Hong Kong Ltd. and New World Telephone Ltd. should be 100%, 99%, 89% and 74% respectively. As such, S/ITB believed that the latter three

should be able to complete their rectification work by the end of June 1999 as scheduled.

10. As regards the Y2K compliance position of the International Simple Resale operators and radio paging operators, S/ITB informed the meeting that the primary focus of the Administration's monitoring work in the telecommunications sector was to ensure that all FTNS licensees, mobile phone operators and major Internet service providers could complete their rectification work by the end of June 1999. As for small operators, since they were required to provide services to the satisfaction of the Office of the Telecommunications Authority (OFTA) under their licences, they should ensure that their services would not be disrupted by Y2K-induced failures. Furthermore, in case they failed to provide a satisfactory service, consumers could easily switch to other operators.

Contingency planning

11. On the contingency planning of the telecommunications and broadcasting operators, S/ITB advised that their present focus was on the rectification work of the respective service providers. But some of them had already started to formulate contingency plans to cater for possible Y2K induced failures, the Administration would further liaise with them on their plans around May or June 1999.

12. As regards the territory-wide Y2K emergency response centre, S/ITB advised that the centre was aimed at co-ordinating contingency responses across different sectors and facilitating the dissemination of Y2K-related information. Members noted the mechanism would initially be based on the existing emergency response arrangements and more specific details would be finalised in the third quarter of 1999.

13. The Deputy Chairman enquired whether the Administration would co-ordinate sector-wide contingency plans in the telecommunication sector so that operators could offer assistance to each others in case of emergencies. S/ITB confirmed that the OFTA was already co-ordinating such sector-wide activities and joint testing amongst different telecommunications networks had been arranged.

IV 1998 review of fixed telecommunications (LegCo Brief - File Ref. ITBB CR 7/4/6 (99)XV)

14. The Chairman drew members' attention to the checklist on 1998 review of fixed telecommunications prepared by the Secretariat and a submission from the Hong Kong Internet Service Providers Association. The papers were tabled at the meeting and circulated thereafter vide LC Paper Nos.

CB(1)1310/98-99 (02) and (03).

Extension of the moratorium on the issue of further local fixed telecommunications network services (FTNS) licences to 31 December 2002 (the moratorium)

15. Referring to paragraph 5(a) of the LegCo Brief, which stated that one of the principles contributing to the development of a vibrant telecommunications industry in Hong Kong was that it had a strong preference for market-driven solutions and would only restrict the operation of the market where the overwhelming public interest demanded it, Mr Fred LI questioned how the extension of the moratorium could tie in with this principle.

16. In response, S/ITB pointed out that having regard to the long lead time required for building up new networks and the decision to permit Hong Kong Cable Television Limited (HKCTV) to offer telecommunications services over its existing network, the extension of the moratorium in return for further network roll-out commitments from the three existing new FTNS licensees should be the quickest way to create effective competition in the local FTNS market. Moreover, there were other developments that had made the local FTNS market more conducive to effective competition. Firstly, FTNS services could now be introduced using wireless technologies. Secondly, significant breakthroughs in Type II interconnection had been made. For example, the agreement among the four local FTNS licensees on a code of practice on practical arrangements for implementing Type II interconnection and the recent conclusion of a commercial agreement between Hong Kong Telecom (HKT) and New World Telephone Limited on arrangements for Type II interconnection. It was believed that similar agreements would be signed with the other two FTNS operators shortly.

17. S/ITB also refuted Mr Fred LI's comment that the decision to encourage the introduction of wireless-based technologies to provide local fixed services while extending the moratorium on the issue of further local FTNS licences was a move to balance the interests of different operators. Instead, the key consideration was to take advantage of new technologies and innovative services to accelerate the emergence of effective competition in the local FTNS market to benefit consumers.

18. Elaborating on how the extension of the moratorium could benefit consumers, S/ITB pointed out that with further network roll-out by the three new FTNS licensees in return for the extension of the moratorium, the availability of an alternative broadband network over HKCTV's network and further developments in Type II interconnection, these networks would be able to offer consumers within the shortest possible time the choice of an alternative service to that provided by HKT.

19. Addressing Mr Kenneth TING's concern that as a result of the extension of the moratorium, the four existing FTNS licensees might be able to form a cartel to block new entrants to the market, S/ITB assured members that there were already safeguards against anti-competitive practices in the terms and conditions of the FTNS licence, contravention of which might lead to penalties on the licensee or even revocation of the licence. Moreover, the Telecommunication (Amendment) Bill 1999 to be introduced shortly would, if enacted, provide further competition safeguards.

Network roll-out commitments

20. In reply to Mr Howard YOUNG's question on whether the three existing new FTNS licensees would be required to provide commitments to improve the quality of their networks so as to solve the congestion problem on the Internet, S/ITB clarified that the problem had little to do with network quality but was attributable to the capacity provided by individual Internet service providers commensurate with the level of service fees charged. He, however, assured members that all operators were obligated under their licences to provide services to the satisfaction of the OFTA.

21. At members' request for details on the extent of further network roll out by the three existing new FTNS licensees, S/ITB said that the subject matter was still under consideration by the respective operators. He undertook to report to the Panel when the plans were finalized around July 1999.

Admin

22. In the event of failure to achieve the roll-out commitments by FTNS licensees, S/ITB pointed out that the three new FTNS licensees were required to provide fixed amounts of performance guarantees against the fulfillment of their commitments.

Licensing of additional wireline FTNS operators

23. To assure members that the moratorium would not be further extended upon its expiry on 31 December 2002, S/ITB pointed out that in order to ensure the timely issue of new additional wireline FTNS licences for operation on 1 January 2003 onwards, the Administration would publish in 2002 detailed guidance notes setting out the minimum requirements and the licensing criteria for application of wireline FTNS licences. Addressing Miss Emily LAU and Mr Fred LI's concern about how new entrants could compete with the early starters, S/ITB stressed that it would be a commercial decision of individual operators as to whether it was desirable to enter the market. On the part of the Administration, they would carefully consider each and every application for wireline FTNS licence, having regard to all relevant factors including the applicants' financial and technical capabilities.

24. As regards the lead time allowed for applicants of new wireline FTNS licences to prepare for operation, S/ITB informed the meeting that application for new licences would be invited in advance in 2002. The Chairman commented that in order to achieve effective competition earlier, applicants should be allowed to make preparation such as the laying of cables before they were licenced to enable them to commence operation from 1 January 2003 onwards. In response, S/ITB pointed out that operators providing services using wireless technologies should pose sufficient challenge to existing players.

Provision of wireless FTNS services

25. On whether a new type of licence would be necessary for the provision of wireless FTNS services, the Director-General of Telecommunications explained that the form of wireless FTNS licence to be used would be based on the current FTNS licence which had already been issued to the existing four FTNS operators for the provision of service using both wireline and wireless technologies. The different licensing scenario would be reflected in the wireless FTNS licences to be issued by specifying in it the use of wireless technologies. Members noted that it was the Administration's plan to finalise the guidelines for application of wireless FTNS licences within two months for application to begin in June 1999.

26. As to whether additional frequency spectrum would be required for the provision of wireless FTNS services, S/ITB reported that the OFTA was currently studying the frequency allocation situation, and relevant details would be included in the above guidelines.

Other concerns

27. Regarding the existence of restrictions on the three new FTNS licensees to transfer their shares to other parties, S/ITB advised that according to Hong Kong's binding commitment made in the World Trade Organization, there should be no foreign ownership restrictions for telecommunications companies.

28. Addressing the Chairman's concern about possible market dominance in the broadband market by HKCTV upon permission for it to launch telecommunications services over its extensive broadband network, S/ITB pointed out that all wireline FTNS operators could in fact provide broadband services. Moreover, apart from additional competition safeguards to be provided by the Telecommunication (Amendment) Bill 1999, HKCTV, under its telecommunications licence, would also be subject to the interconnection requirement provided under the Telecommunication Ordinance. Members, however, noted that due to differences between HKCTV's hybrid fibre coaxial cable network and the optical fibre telecommunications networks, the principles of and technical arrangements for interconnection of the two kinds of networks had yet to be announced.

29. In response to the Chairman on whether new licences for the operation of cable TV would also allow the licensee to offer telecommunications services, S/ITB confirmed in the negative and clarified that any additional cable TV licences to be issued would be solely for the purpose of opening up the subscription TV market.

30. On whether the Administration had in the context of the 1998 Review of Fixed Telecommunications studied the number of wireline FTNS operators Hong Kong could accommodate, S/ITB drew members' attention to the fact that FTNS operators were already faced with keen competition not only amongst themselves but also with their counterparts in the mobile phone industry, where the number of users had already exceeded that of the fixed residential line users. Coupled with forthcoming technological advancement which would enable the provision of broadband telecommunications services using wireless technologies, there would be effective competition in the local telecommunications market as a whole. Moreover, as the satellite facilities market would be opened up, operators would also need to face global competition. In future, competition in the telecommunication sector would be among different forms of service provision using different technologies rather than among different operators using the same technology.

V Public Opinion Survey on the Operation of the Control of Obscene and Indecent Articles Ordinance
(LC Paper Nos. CB(1)1263/98-99(04) and (05))

31. The Deputy Secretary for Information Technology and Broadcasting (1) (DS/ITB(1)) briefed members on the findings of the public opinion survey (the Survey) on the operation of the Control of Obscene and Indecent Articles Ordinance (COIAO).

Results of the Survey

32. Mr Howard YOUNG cast doubt on the results of the Survey pertaining to restrictions on access to indecent articles, pointing out that if respondents found the existing arrangements acceptable, they should also find them effective. In response, DS/ITB(1) explained that currently there were two ways of handling indecent articles, namely, by sealing the article in an opaque wrapper with prominent display of a warning notice if the cover was indecent and, if the cover did not contain any indecent elements, by sealing the article in a transparent wrapper with prominent display of a warning notice. As such, there were clear indications to the vendors as to whether an article should be restricted for adults only. However, such an arrangement alone could not prevent young persons from gaining access to indecent articles. This explained the apparent inconsistency in the responses as pointed out by Mr YOUNG.

33. DS/ITB(1) further pointed out that as sealing publications in opaque wrappers would affect sale, most publishers presently chose to keep the covers of their publications free from indecent elements, and hence, the problem relating to indecent covers of publications had been improved. As for indecent comics, the situation had also improved when compared to that in 1994 and 1995.

34. Mr Eric LI pointed out that the results of the Survey as highlighted in paragraphs 9 to 11 of the paper were contradictory. For example, whilst some 75.9% of the respondents in the general survey considered it appropriate for the Obscene Articles Tribunal (OAT) to assume responsibility of classifying articles, only 22.6% of the respondents could correctly identify the classification system. Likewise, whilst recognizing the work of the OAT, the survey revealed that the existing classification standards of the OAT did not appear to match the more conservative standard of the respondents. In view that respondents could not correctly identify the classification system, he also called on the Administration to enhance the related civic education.

35. DS/ITB(1) explained that although respondents found the nomenclature of the two classification systems confusing (i.e. the system for classifying articles under the COIAO and the film classification system under the Film Censorship Ordinance), they considered the arrangement of a presiding magistrate sitting with lay members as adjudicators (i.e., the existing OAT system) a sound system. In the same way, while respondents might be more conservative than members of the OAT, they agreed that the level of moral standards generally accepted by the community should be adopted by OAT in classifying articles. She, however, assured members that the Administration would interpret the results of the survey cautiously.

36. Referring to paragraph 18 of the paper, Mr Eric LI questioned the omission of non-Government organisations (NGOs) such as the Society for Truth and Light as a means to prevent juveniles from accessing obscene and indecent articles. In response, DS/ITB(1) and the Commissioner for Television and Entertainment Licensing (C for T & EL) clarified that as the Survey was conducted by Lingnan University (formerly called the Lingnan College), the Administration had not interfered into the design of the question in collecting public views on the effectiveness of individual channels as a means to prevent juveniles from accessing obscene and indecent articles as set out in paragraph 18. Moreover, for this particular question, respondents were asked to assess the degree of importance of the roles played by the respective parties and answers so given represented their own personal choice. C for T & EL, however, undertook to examine the role of NGOs in future surveys.

Admin

37. Mr YEUNG Yiu chung expressed reservation about the finding that respondents had more conservative standards than the OAT. In his view, as reflected by the OAT's controversial classification of certain articles of art, the

difference in standards might mainly lie in the OAT placing more emphasis on visual impacts than indecency in written form. He therefore called on the Administration to place greater emphasis on the latter.

38. DS/ITB(1) responded that the OAT was also paying attention to indecency in written form but there was difficulty in preventing indecent publications from circulation as there was no prior censorship requirement. On the performance of OAT, DS/ITB(1) also pointed out that as morality standards were essentially subjective, it was inevitable that some degree of disagreement with the OAT's classification would result. The Administration would however consider whether additional guidance could be provided to the OAT on classification standards.

Proposals for improvement

39. Regarding the confusion between the system for classifying articles under the COIAO and the film classification system under the Film Censorship Ordinance, DS/ITB(1) assured members that this would be an area under review in the public consultation paper. Members noted that pending specific legislative proposals to solve the nomenclature problem, the Administration would gear up publicity and public education efforts to enhance understanding of the two classification systems. In response to Mr Andrew CHENG's suggestion to explore solutions in the consultation exercise, DS/ITB(1) assured members that this would be a major topic in the consultation exercise and undertook to consider the Commission on Youth's proposal to merge the two systems into one.

Admin

40. In consideration of young people's vulnerability to bad influence of indecent articles, Miss Emily LAU urged the Administration to actively work out effective measures to protect young persons from being so exposed. In response to Miss LAU's request for details of measures under contemplation, DS/ITB(1) pointed out that the Survey had already identified certain areas for improvement, namely, stepping up publicity and the need to remove confusion between the two existing classification systems. As for regulation by legislation, while assuring members of the Administration's recognition of the need to protect youngsters by legislative measures as exemplified by the introduction of legislation against child pornography, DS/ITB(1) also stressed the need to maintain a balance between the need to protect youth as against freedom of publication and expression, and concurred with Miss LAU that the best solution might lie in self-regulation by the mass media. She also assured members that the public, including NGOs, would be consulted on the specific proposals for improvement.

41. In response to Miss Emily LAU's call to refer to overseas experience in examining whether the protection of youngsters from indecent articles should be provided for in law, DS/ITB(1) remarked that protection of youth was on the

agenda of all governments. Similar to Hong Kong, overseas governments respected freedom of publication and there was no pre-censorship. She also pointed out that any legislation in this respect would need to provide a legal definition of youngsters in terms of age. In this connection, the Chairman cautioned that great care should be exercised in learning from overseas experience having regard that their definitions of youngsters might vary greatly from that of Hong Kong owing to the differences in cultural backgrounds.

Admin

42. Addressing Mr Andrew CHENG's concern about the OAT's performance, which in his view might be affected by inertia caused by excessive exposure to indecent articles, DS/ITB(1) agreed to relay to the Judiciary for consideration his proposal to introduce a jury system into the OAT. At Mr CHENG's request to include his proposal in the consultation paper, DS/ITB(1) assured him that the consultation paper would incorporate options put forward in all relevant areas, including regulatory measures.

Admin

43. As to whether the law should provide clear guidelines on obscenity and indecency, DS/ITB(1) reiterated the Administration's long-held stance of not setting guidelines on moral standards on grounds that they involved subjective judgement and essentially fell into the realm of ideology. Nevertheless, the Administration would examine the issues relating to definition and guidelines on obscenity and indecency in the review of the COIAO.

44. As regards Government's response to the Audit Commission's comment that TELA's efforts to control pornography lacked direction and standards, the Administration assured members that major improvements to TELA's operation had already been put in place. As recommended by the Audit Commission, TELA would conduct more frequent inspections on high-risk sales spots identified, hold weekly staff briefings on OAT's classification rulings to help staff better understand the OAT's classification standards, and organise monthly exchange sessions among different inspection teams to examine difficult and special cases together so as to enable staff to respond more readily to changes in public moral standards.

Other concerns

45. As to whether the obscene contents of the two best-selling newspapers had attributed to their popularity, DS/ITB(1) stated that publication business had always been market-driven. Daily monitoring of the contents of these newspapers had always been part of the on-going job of TELA. Should there be any suspected breach of the COIAO, the articles in question would be referred to the OAT for classification.

VI Any other business

46. There being no other business, the meeting ended at 4:30 p.m.

Legislative Council Secretariat

1 November 1999