

立法會
Legislative Council

LC Paper No. CB(2) 2602/99-00
(These minutes have been seen by
the Administration and cleared
with the Chairman)

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Bills Committee on Broadcasting Bill

Minutes of Meeting
held on Tuesday, 30 May 2000 at 2:30 pm
in Conference Room A of the Legislative Council Building

Members Present : Hon Mrs Selina CHOW LIANG Shuk-ye, JP (Chairman)
Hon Cyd HO Sau-lan
Hon MA Fung-kwok
Hon SIN Chung-kai
Hon YEUNG Yiu-chung
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk
Hon Andrew CHENG Kar-foo

Members Absent : Hon David CHU Yu-lin
Hon Ronald ARCULLI, JP
Hon FUNG Chi-kin

Public Officers Attending : Mr Eddy CHAN
Acting Deputy Secretary for Information Technology
and Broadcasting (1)

Mr Eddie MAK
Principal Assistant Secretary for Information Technology
and Broadcasting (A)

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

Mr Geoffrey A FOX
Senior Assistant Law Draftsman, Department of Justice

Ms Cynthia LEE
Government Counsel, Department of Justice

Attendance by Invitation : International Federation of the Phonographic Industry (Hong Kong Group) Ltd

Mr Ricky FUNG
Chief Executive Director

Mr Sean MOK
Deputy Director

Clerk in Attendance : Mrs Constance LI
Chief Assistant Secretary (2) 2

Staff in Attendance : Miss Connie FUNG
Assistant Legal Adviser 3

Miss Betty MA
Senior Assistant Secretary (2) 1

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I. Meeting with the Administration

[Paper Nos. CB(2)2094/99-00(03), (04), (05) and (07), and CB(2)2117/99-00(01)]

Members noted that an information paper from the Administration entitled "English Programming requirement on Commercial Television Broadcasting Licensees" [Paper No. CB(2)2149/99-00(010) was tabled at the meeting. The Bills Committee then continued discussion of the Administration's response to members' concerns [Paper No. CB(2)2094/99-00(03)].

The Administration's responses to outstanding issues raised by members
[Paper No. CB(2)2094/99-00(03)]

2. At the invitation of the Chairman, Acting Deputy Secretary for Information Technology and Broadcasting (DS(ITB)(Ag)) highlighted the main points in the Administration's paper.

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3. DS(ITB)(Ag) advised that the Administration agreed to provide for civil remedies for a licensee sustaining loss or damage in the context of clauses 13 and 14 of the Broadcasting Bill (the Bill). The Administration would introduce an amendment to this effect.

4. Miss Emily LAU asked about the reasons for not providing an appeal mechanism for the television programme service, similar to the proposed Telecommunications (Competition Provisions) Appeal Board, to deal with competition disputes and breaches of the codes of practice. In response, DS(ITB)(Ag) explained that the Telecommunications Authority was a public officer whereas the Broadcasting Authority (BA) was an independent statutory body comprising mainly non-official members. Moreover, the Bill had already provided for an appeal channels for licensees to make representations to the Chief Executive in Council (CE in C) if they were aggrieved with the decisions of BA. The Administration was therefore of the view that it was not appropriate to establish another tier of appeals mechanism.

5. The Chairman advised that as the Bills Committee already had thorough discussion at previous meetings on the issue of appeal mechanism, members who were not satisfied with the Administration's response could consider moving amendments to the relevant clauses of the Bill.

6. As regards the requirements for a "fit and proper person" under clause 20, DS(ITB)(Ag) said that Government's legal advice had confirmed that a licensing authority would take into account an applicant's history as a relevant consideration. A Committee Stage amendment (CSA) would therefore be made to require the licensees to submit annual returns in specified forms, including any changes in the criminal records.

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7. On investigation of licensee's business, Senior Assistant Law Draftsman (SALD) said that the Administration would propose a CSA to clause 24 to put beyond doubt that the provisions of Part XII of the Interpretation and General Clauses Ordinance would apply to clause 24.

8. On clause 27, DS(ITB)(Ag) said that the Administration was of the view that there was no need to specify in the legislation that BA should hold public hearings on representations of licensees regarding a financial penalty. BA could allow a licensee to make representations in public where appropriate.

9. As regards the proposal to apply different penalties under clause 27 to breaches of competition provisions and programme content requirements, DS(ITB)(Ag) said that the Administration agreed to the proposal after examining the policy implications. The Administration now proposed that the penalty for breaches of competition provisions would be pegged with the turnover of the

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licensee in the relevant television programme service in the period of breach and the maximum penalty would be 10% of the turnover or \$2 million, whichever was the higher. The authority for imposing a financial penalty exceeding \$1 million on anti-competitive behaviour under clause 27 would rest with the Court.

10. On the concern that licensees and non-licensees should be subject to the same penalty for breaches under clauses 24 and 25, DS(ITB)(Ag) said that legal advice confirmed that any person who obstructed a public officer or other person in the performance of any public duty would be liable to penalties under section 23 of the Summary Offences Ordinance.

11. DS(ITB)(Ag) said that the Administration agreed to require a licensee to make an apology within specified time and a CSA would be made to clause 29 to this effect. Responding to Miss Emily LAU, DS(ITB)(Ag) said that the requirement to make an apology was a direction given by BA within the meaning of clause 23 or clause 29, and non-compliance was liable to a financial penalty under clause 27 or a revocation of licence under clause 30.

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12. On the proposal to hold public hearings for suspension of licence, DS(ITB)(Ag) said that the Administration would propose a CSA to clause 30(3) to this effect. As for the proposal to shorten the licence period as a penalty for breaches of licence conditions, the Administration considered that the existing sanctions under the Bill could provide sufficient deterrence and no changes would be proposed.

13. As regards the holding of public hearings for revocation of licence, DS(ITB)(Ag) said that the Administration was of the view that BA should be given the discretion to decide whether a public hearing should be held as part of the inquiry. It was because in some cases, breaches of clause 31 was a matter of fact rather than judgement, e.g. failure to pay licence fee by the licensee. Nevertheless, the Administration would propose CSAs to specify the circumstances or nature of contravention for which suspension or revocation might be considered by BA under clauses 30 and 31.

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14. DS(ITB)(Ag) further advised that the Administration would propose CSAs to clauses 41(2) and 42(1) to the effect that the grounds for exemption from the application of clause 13 should be prescribed by regulation, and that amendments to Schedule 3 would also be subject to the positive vetting procedure of the Legislative Council (LegCo).

15. As regards members' concern about the competence of BA in enforcing the new competition provisions, DS(ITB)(Ag) said that the Administration was of the view that BA would be capable of performing its functions under the Bill. He said that the Administration would take into consideration the knowledge and expertise of the candidates in recommending appointments to BA. Where

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necessary, BA could engage its own consultant to advise on technical matters. Moreover, the consultant on competition law engaged by the Telecommunications Authority could also offer advice to BA. The Administration therefore did not envisage any problems for BA to enforce the competition provisions.

The Administration's response to outstanding issues raised by deputations
[Paper No. CB(2)2094/99-00(04)]

16. The Chairman noted that the Administration had agreed to propose CSAs to address most of the concerns raised by deputations. She suggested that members could consider the Administration's responses to policy issues before examining the proposed amendments. Members agreed.

17. Members also noted that the Administration had tabled a letter responding to the submission from the Satellite Television Rentals Ltd on clause 7 [Paper No. CB(2)2154/99-00(01)]. DS(ITB)(Ag) stressed that unauthorised use of decoders and re-export of such decoders from Hong Kong were piracy issues outside the scope of the Bill. However, the import of such decoders and the "illicit sale" in Hong Kong would constitute an offence under clause 7 of the Bill.

18. Regarding the deputations' concerns about clause 13, the Chairman said that as the Bills Committee would meet the International Federation of the Phonographic Industry (Hong Kong Group) Limited (IFPI) on the subject at the later part of the meeting, she suggested and members agreed to discuss the Administration's response to concerns on clause 13 afterwards.

19. Members noted that the Administration would propose amendments to clauses 13 and 14 to address other concerns raised by Cable & Wireless HKT Limited and Cable & Wireless HKT VOD Limited and the Consumer Council.

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20. Members noted that the Administration would propose a CSA to clause 17 to the effect that BA should issue guidelines to specify the considerations for granting an exemption under clause 17.

21. DS(ITB)(Ag) said that the Administration would propose CSAs to clauses 25 and 26 to address the concerns raised by Hong Kong Cable Television Limited on disclosure of information. Responding to Mr SIN Chung-kai, DS(ITB)(Ag) explained that a CSA would be proposed to the effect that a third party would not be required to give any information or document which the person could not be compelled to give in civil proceedings before the Court of First Instance. In addition, another CSA would be proposed to the effect that BA should give a reasonable opportunity for the person supplying the information in confidence to make representations on a proposed disclosure.

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22. On Schedule 8, DS(ITB)(Ag) explained that a transitional arrangement was necessary because the scope of the competition provisions proposed in the Bill was much wider than that in the existing licence conditions.

Generic codes of practice for television

[Paper No. CB(2)2094/99-00(05)]

23. At the invitation of the Chairman, DS(ITB)(Ag) briefed members on the information paper [Paper No. CB(2)2094/99-00(05)] which set out the existing codes of practice for television. DS(ITB)(Ag) said that a generic code would be compiled for the four categories of licences. Standards for Domestic Free and Domestic Pay service licensees were modelled largely on the existing codes of practices for commercial television. Non-domestic services which did not primarily target Hong Kong would be required to observe mainly the standards and regulation of their intended recipient countries or places. As for Other Licensable service licence, the programme standards would be more or less the same as those of the Control of Obscene and Indecent Articles Ordinance. This was in line with the current requirements on existing hotel television service licensees.

24. The Chairman remarked that the Bills Committee had urged the Administration to provide the draft generic codes of practice. She asked when the draft codes would be ready for discussion by the Bills Committee. DS(ITB)(Ag) responded that BA was now preparing the draft generic codes and would need to consult the industry before promulgation. Responding to Miss Emily LAU, DS(ITB)(Ag) said that the draft generic codes would be available for public consultation in the third quarter of 2000, and that LegCo would also be consulted.

25. Mr SIN Chung-kai considered that the draft generic codes of practice should be made available to the Bills Committee so that any omissions in the Bill could be detected at an early stage. Mr MA Fung-kwok shared the same concern.

26. DS(ITB)(Ag) clarified that the Code of Practice would not cover competition guidelines which would await the commencement of clauses 13-16 at a date to be appointed by the Secretary for Information Technology and Broadcasting (SITB). Mr Andrew CHENG said that if the Administration had difficulties in producing the generic codes of practice before the Bills Committee completed scrutiny of the Bill, the Administration should at least provide the draft generic code of practice on television advertising standards for members' reference. DS(ITB)(Ag) agreed to provide the proposed provision in respect of identifications of advertisements in the draft generic code of practice on television advertising standards before the next meeting.

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27. Responding to the Chairman, DS(ITB)(Ag) said that meetings of the Codes of Practice Committee of BA were open to the public and the industry was

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also consulted on changes to the codes. Moreover, as a CSA would be introduced to the effect that the competition provisions (clauses 13 to 16) would come into operation on a later day to be appointed by SITB, the industry and the public would have ample time to make suggestions on the competition guidelines.

Competition guidelines

[Paper No. CB(2)2094/99-00(07)]

28. Members noted that the Administration had provided a paper on "Competition Guidelines" describing the outline, approach and scope of the draft guidelines on competition. DS(ITB)(Ag) said that in formulating the guidelines, BA would make reference to guidelines in other jurisdictions, such as those issued by the Independent Television Commission (ITC) of the United Kingdom (UK). DS(ITB)(Ag) also briefly explained the ITC Code of Competition Policy Procedures annexed to the Administration's paper.

29. DS(ITB)(Ag) said that the draft competition guidelines to be issued by BA would largely be modelled on the ITC Code and would cover the following areas -

(a) *Overview*

The competition provisions in clauses 13 and 14 largely followed the competition law of the European Union (EU), based on Articles 81 and 82 of the Treaty of Rome.

(b) *Enforcement procedures*

The procedures for enforcing the competition provisions would largely follow the complaint procedures in paragraphs 31 to 53 of ITC Code.

(c) *Competition analysis framework*

- The competition analysis framework consisted of three main stages, namely, defining the relevant market, assessing market power and assessing whether there was an abuse of a dominant position or substantial effect on competition.
- Definition of the market would likely follow paragraphs 63-94 of ITC Code, including the demand and supply conditions associated with the products or services under examination.
- On the assessment of market power, paragraphs 95-117 of ITC Code outlined factors of consideration such as behaviour of

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existing competitors, the scope of potential competition and the strength of buyer's power.

- To ascertain whether there was an abuse of a dominant position in the market or substantial effect on competition, BA would make reference to paragraphs 118-126 of ITC Code on the yardsticks for establishing substantial effect on the relevant market.

30. DS(ITB)(Ag) said that BA would make some adaptations of the ITC Code to suit the local television market environment in Hong Kong. He assured members that BA would consult the industry before promulgating the guidelines.

31. Mr Andrew CHENG asked whether the ITC Code contained exemption provisions such as those in clause 13(5) of the Bill. In response, DS(ITB)(Ag) advised that the competition law of EU exempted "agreements which contribute to improving the production or distribution of goods or to promoting technical or economic progress while allowing consumers a fair share of the resulting benefit and which does not impose restrictions which are not indispensable to the attainment of the objectives". The scope of exemption under EU competition law was wider than that proposed in the Bill. Moreover, paragraph 120 of ITC Code stipulated that "ITC will seek to ensure that firms do not damage the interests of customers and viewers by concluding restrictive agreements or engaging in concerted practices". DS(ITB)(Ag) added that the exemption provisions under clause 13 of the Bill were not applicable to clause 14 regarding abuse of dominance. Under clause 14, a dominant player was prohibited from abusing its dominance by imposing harsh terms when concluding an agreement.

32. Mr Andrew CHENG remained unconvinced of the need for the exemption provisions in the Bill as no parallels were found in overseas legislation. He was of the view that the exemption provisions in clause 13(5) should be deleted.

33. Mr SIN Chung-kai suggested that no exemption provisions should be provided in the principal ordinance. Where necessary, the Administration could provide exemptions in a schedule to the Bill. Ms CHOY So-yuk agreed with Mr SIN.

34. DS(ITB)(Ag) clarified that the free competition clauses were already included in the licence conditions. The current proposal was to include competition provisions in the legislation. The exemption provisions in clause 13(5) was to give recognition to the industry practice such as exclusive contracts which were made between licensees and artistes. As far as he was aware, there were similar exemption provisions in the UK competition law. At the request of the Chairman, DS(ITB)(Ag) undertook to provide information on the relevant UK competition law. He added that the industry had not raised objection to the exemption provisions during the consultation of the 1998 Review of Television

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Policy.

35. Mr MA Fung-kwok said that there were still grey areas in the exemption provisions, such as the prohibition of an artiste from appearing in the programmes of another television station. He said that clauses 13 and 14 were unclear as to whether a licensee in a dominant position would also be exempted.

36. DS(ITB)(Ag) said that in assessing whether a licensee had abused its dominant position under clause 14, BA would form an opinion as to whether the terms or conditions in an artiste's contract were harsh from a reasonable man's perspective.

37. In concluding the discussion, the Chairman said that members were generally of the view that the exemption provisions under clause 13 were difficult to implement and such provisions would undermine the effectiveness of the competition provisions. She therefore urged the Administration to re-consider its position on the exemption provisions in the light of members' comments. To facilitate further discussion of the subject at the next meeting, Miss Emily LAU requested the Administration to provide information on the consequences if the exemption provisions were deleted from the Bill. DS(ITB)(Ag) agreed to provide the information.

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[The Chairman ordered a ten-minute break at 4:10 pm.]

II. Meeting with deputation

[Paper No. CB(2)2137/99-00(01)]

38. The Chairman welcomed the representatives of International Federation of the Phonographic Industry (Hong Kong Group) Ltd (IFPI) to the meeting. She informed members that IFPI had made a further submission to the Bills Committee [Paper No. CB(2)2137/99-00(01)].

39. Mr Ricky FUNG representing IFPI said that the Bill failed to recognize the contribution of the record industry to the broadcasting industry. He said that IFPI was concerned that there should be effective competition measures to ensure fair competition in the market. He pointed out that television programme service licensees had an advantageous position because they controlled the record industry's most important avenue for promoting the latter's artistes and products. Moreover, "exclusive contracts" signed between artistes and licensees could be an anti-competition tool. The proposal to exclude "programme suppliers" from the list of "disqualified persons" in the Bill would enable licensees to enter the record industry without statutory restriction. Therefore, IFPI would support the proposed deletion of "programme suppliers" from the list of "disqualified persons" only if effective anti-competition measures were put in

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place. In general, IFPI was of the view that the anti-competition protection should be extended to "markets with co-dependent relationship" with the television programme service market. IFPI also urged the Administration to undertake to review the anti-competition regulatory regime in the next three years.

40. Mr Ricky FUNG said that IFPI recommended enactment of the Bill together with the competition provisions (clauses 13 to 16), but without the exemption provisions. If the exemptions were to be retained, IFPI would suggest that clauses 13 and 14 should be amended to restrict the scope of exemptions. Mr Ricky FUNG stressed that the exemption of exclusive contracts with artistes would enable a licensee to "lock in" recording artistes and clause 13(5)(b) could not effectively prohibit such behaviour. He therefore appealed to members' support for the deletion of clause 13(5)(b).

41. DS(ITB)(Ag) responded that the Administration had made clear its stance that the Bill sought to regulate the television programme service market. It was practically difficult to incorporate the concept of co-dependent industry into the Bill as this would unduly expand the scope of the Bill. He added that if the behaviour of a licensee affected the competition of the television programme service market, clauses 13 and 14 would be applicable.

42. Ms Cyd HO shared IFPI's concern about "co-dependent markets" but acknowledged that the Bill was confined to television programme service market at the moment.

43. The Chairman concluded that the Bills Committee noted the concerns of IFPI about "co-dependent markets". However, as the Bill was confined to television programme services, she requested IFPI to provide its suggested amendments to clause 14(5)(b) to facilitate further consideration by the Bills Committee.

IFPI

(Post-meeting note : IFPI had submitted its fifth submission [Paper No. CB(2)2180/99-00(02)] on the proposed amendments for the Bills Committee meeting on 1 June 2000.)

44. The Chairman thanked the representatives of IFPI for attending the meeting.

III. Examination of draft Committee Stage amendments (CSAs)

45. The Bills Committee then examined the Administration's proposed CSAs which were tabled at the meeting (version as at 30 May 2000) [Paper No. CB(2)2166/99-00(01)].

Clause 1

46. SALD explained that the proposed amendment to clause 1(2) sought to bring clauses 13 to 16 of the Bill into operation on a later day to be appointed by SITB by notice in the Gazette.

Clause 2

47. SALD said that the proposed amendment to clause 2(1) was to delete the definition of "domestic household" as the term was no longer used in the Bill. To address members' concerns about the maximum number of households to be served by an Other Licensable service licence, amendments were also made to empower BA to waive the upper limit of 5 000 households if the intention of the service was only for the reception by a single housing estate. The aggregate number of households of 200 000 households would remain unchanged. Government Counsel also advised that the Chinese term of "Telecommunication Authority" (局長) would be changed to "電訊局長" to avoid confusion with SITB.

48. Members also noted that a new sub-clause (11) was added to require BA to give reasons in writing for its decisions or opinions made under the Bill. A similar amendment had been proposed for the Telecommunication (Amendment) Bill 1999.

Clause 4

49. SALD said that a new sub-clause (2) would be added to make it a mandatory requirement for BA to issue guidelines on the criteria adopted in performing the following functions -

- considering applications for a Domestic Free or Pay service licence and making recommendations to CE in C under clause 9(2);
- granting Non-domestic service licences and Other Licensable service licences under clause 10(2);
- forming an opinion on whether a licensee breached the competition provisions under clauses 13 and 14; and
- granting exemption from the territory-wide service provision requirement under clause 17(2).

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50. SALD advised that the new sub-clause (3) was to impose a mandatory requirement for BA to consult the licensees and parties who might be affected by the guidelines on competition provisions before promulgation of the guidelines.

Clause 6

51. SALD said that the proposed CSA to clause 6 was to address members' concern about the export or re-export of unauthorized decoders.

Clause 9

52. SALD advised that the new sub-clause (3) was to require BA to publish information of an application by notice in the Gazette, so as to enable affected parties to make representations within 21 days of the day of notice. The proposal was to enhance the transparency of the processing of licence applications.

Clause 10

53. SALD said that the amendment was to clarify the application of sub-clauses (4) and (5).

Clause 11

54. SALD advised that the new sub-clause (3A) was to require BA to hold public hearings in respect of extension or renewal of Domestic Free or Domestic Pay service licence, where the licence was to be extended or renewed for a period of six years or more. Amendments were also proposed to sub-clauses (4) and (5) to clarify that CE in C would give sufficient notice in relation to the extension and renewal of licence.

Clause 12

55. SALD said that the new sub-clause (4A) was to give a reasonable opportunity for the licensee concerned to make representations to BA as to whether the television programme service primarily targeted Hong Kong. The new sub-clause (4B) gave examples on the principles and criteria for BA to make such determination.

Clause 13

56. SALD said that the proposed amendments to clause 13 were made in response to concerns raised by the deputations. The Administration had no objection to add "distorting" to sub-clause (1) and "wholly or substantially" to sub-clause (5)(a). The amendment to sub-clause (6) was to put it beyond doubt

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that clause 13 should not prejudice the existence of any rights arising from the operation of law relating to copyright or trademarks.

New Clause 14A

57. SALD advised a new clause 14A(1) was added following discussion with the consultant on competition laws. The new clause aimed to put it beyond doubt that the conduct of an associate of a licensee might be considered for the purposes of the competition provisions (clauses 13 or 14) of the Bill.

58. Responding to the Chairman, SALD advised that the definition of "associate" was given in clause 2(1) and Part 1 of Schedule 1 to the Bill. The Chairman then drew members' attention to the wide coverage of "associate" as defined in Schedule 1.

59. Regarding the new clause 14A(2), SALD said that the proposed addition was to provide for civil remedies for a licensee sustaining loss or damage from a breach of clause 13(1) or 14(1).

Clause 16

60. SALD said that "accounting practice" was amended to "accounting principles" for consistency with the terminology used in the Telecommunication Ordinance.

Clause 18

61. SALD advised that the amendment was to confine the scope of clause 18 to educational programmes as suggested by a member.

Clause 20

62. SALD said that the proposed CSA was to require the licensees to submit annual returns in specified forms to BA reporting on any changes in business record for meeting the requirements for a "fit and proper person".

Clause 23

63. SALD said that the new sub-clause (3) was to require BA to publish its directions to a licensee in the Gazette or in any other manner as it thought fit.

Clause 24

64. SALD said that several amendments were proposed to clause 24 to address members' concerns. The amendment to clause 24(1) specified the type of

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legislation for the purpose of invoking the investigation power under clause 24. The new sub-clause (11) was to put beyond doubt that search and seizure of journalistic materials would be subject to the provisions in Part XII of the Interpretation and General Clauses Ordinance (Cap. 1).

Clause 25

65. SALD said that the new sub-clause (3) was to clarify that a non-licensee would not be required to give any information or produce any document which he could not be compelled to give in evidence, or produce, in civil proceedings before the Court of First Instance. The amendment was in line with a similar provision in the Telecommunication (Amendment) Bill 1999.

Clause 26

66. SALD said that the proposed addition of sub-clause (3) required BA to give a reasonable opportunity for a person to make representations on the proposed disclosure of information by BA.

Clause 27

67. SALD advised that as suggested by members at previous meetings, the Administration now proposed to add a new sub-clause (3) to require BA to apply to the Court of First Instance to impose on a licensee a higher financial penalty not exceeding 10% of the turnover of the licensee concerned in the relevant television programme service market in the period of breach, or a financial penalty of \$2 million, whichever was the higher.

68. In response to the Chairman, SALD advised that "the period of the breach" referred to the period of engaging in anti-competitive behaviour of a licensee.

69. The Chairman asked whether it was possible to peg the level of financial penalty to the profit generated from the programme concerned. SALD advised that it would be extremely difficult to determine the exact profits generated from an anti-competitive act. However, the new sub-clause (3B) required BA to impose a financial penalty which was proportionate and reasonable in relation to the breaches.

Clause 29

70. SALD said that the proposed amendment would make it clear that BA might specify the time for an apology to be made by the licensee concerned. At the suggestion of the Chairman, SALD agreed to refine the wording.

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Clause 30

71. SALD explained that the proposed amendment to clause 30(2) was a consequential amendment to clause 27 regarding the proposal for BA to apply to the Court of First Instance to impose a financial penalty. The new sub-clause (3)(c) was to require BA to hold public hearings before making a decision on suspension of licence, as suggested by members at previous meetings.

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Clause 31

72. SALD said that the proposed CSA was made in response to members' concern that the drafting of clause 31 should be improved to specify the relevant authorities for revoking licences under different categories.

Clause 35

73. SALD said that the proposed CSA was to put beyond doubt that the Court of First Instance must satisfy itself that an application for interim order to prohibit a television programme was justified on grounds of urgency before issuing the interim order.

Clause 41

74. SALD explained that the proposed amendment to sub-clause 41(1)(b) specified that BA's power to waive or dispense with the requirements would be subject to specified conditions. The amendments to sub-clause (2) would give the effect that regulations to be made by CE in C under clause 41, except clause 41(1)(f), would be subject to the positive vetting procedure of LegCo. As requested by the Chairman, SALD undertook to improve the drafting of the amendment to sub-clause (2).

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Clause 42

75. SALD said that the Administration had accepted members' suggestion that amendments to Schedule 3 would be subject to the approval of LegCo.

Schedule 1

76. SALD said that as suggested by members, sections 3 and 33 of Schedule 1 were amended to spell out the "public interest" considerations for CE in C to grant approval for a disqualified person to hold a licence or to exercise control of a licensee.

Schedule 4

77. SALD said that the proposed amendment to section 10 of Schedule 4 sought to spell out the minimum duration of television programme service, i.e. not less than 5 hours each day.

78. Miss Emily LAU asked why a specific duration of television programme service would need to be specified in the legislation. The Chairman shared the view and said that she was given to understand that the requirement was already spelt out in the licence conditions.

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79. DS(ITB)(Ag) clarified that the requirement on the minimum duration of television programme service was stipulated in the Television Ordinance but not in the licence conditions. As the Television Ordinance would be repealed, it would be necessary to retain the provision in the Bill to regulate the minimum duration of Domestic Free television programme service.

80. In response to Ms Cyd HO, SALD said that the amendment to section 11(2) of Schedule 4 would provide a covering approval mechanism for exemption from compliance with the advertising time restrictions.

81. The Bills Committee agreed to continue discussion of the remaining CSAs at the next meeting scheduled for 1 June 2000 at 4:30 pm.

82. The meeting ended at 7:00 pm.

Legislative Council Secretariat

10 November 2000