

**立法會**  
**Legislative Council**

LC Paper No. CB(1)957/99-00

(These minutes have been  
seen by the Administration)

Ref : CB1/PL/ITB/1

**Legislative Council**  
**Panel on Information Technology and Broadcasting**

**Minutes of meeting**  
**held on Monday, 10 January 2000, at 2:30 pm**  
**in the Chamber of the Legislative Council Building**

**Members present** : Hon MA Fung-kwok (Chairman)  
Hon SIN Chung-kai (Deputy Chairman)  
Hon Kenneth TING Woo-shou, JP  
Hon David CHU Yu-lin  
Hon Eric LI Ka-cheung, JP  
Hon Fred LI Wah-ming, JP  
Hon CHAN Kwok-keung  
Hon Howard YOUNG, JP  
Hon YEUNG Yiu-chung  
Hon Emily LAU Wai-hing, JP  
Hon Timothy FOK Tsun-ting, SBS, JP  
Hon LAW Chi-kwong, JP

**Member attending** : Hon LAU Chin-shek, JP

**Members absent** : Ir Dr Hon Raymond HO Chung-tai, JP  
Prof Hon NG Ching-fai  
Hon James TO Kun-sun  
Hon CHOY So-yuk

**Public officers attending** : For Item III  
Mrs Jessie TING  
Deputy Secretary for Information Technology and  
Broadcasting (2)

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

Mr Dennis PANG  
Assistant Director of Information Technology  
Services (B)

Mr K S WONG  
Assistant Director of Telecommunications  
(Operations), Office of the Telecommunications  
Authority

Mr Michael LEUNG  
Development Manager (Special Duty), Electrical &  
Mechanical Services Department

Mr LEE Che Kit  
Senior Electronics Engineer (Special Duty),  
Electrical & Mechanical Services Department

Mr Ian STENTON  
Chief Superintendent (Traffic), Hong Kong Police  
Force

For Item IV

Ms Eva CHENG, JP  
Deputy Secretary for Information Technology and  
Broadcasting (1)

Mr Anthony S K WONG, JP  
Director-General of Telecommunications

For Item V

Mr K H LAU, JP  
Director of Information Technology Services

Mr L S LEE, JP  
Commissioner for Official Languages

Mr Rex CHANG  
Principal Assistant Secretary for Information  
Technology and Broadcasting

Mr Rex TONG  
Senior Systems Manager, Information Technology  
Services Department

Mr K Y TIN  
Senior Chinese Language Officer, Official  
Languages Agency

**Attendance by invitation** : For Item IV

Consumer Council

Mrs CHAN WONG Shui  
Chief Executive

Mr Ron CAMERON  
Head, Trade Practices Division

**Clerk in attendance** : Miss Polly YEUNG  
Chief Assistant Secretary (1)3

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

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**I Confirmation of minutes of meeting and matters arising**  
(LC Paper Nos. CB(1)517/99-00 and 723/99-00(01))

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

2. Members noted the Panel's list of follow-up actions.

**II Date and items for discussion for next meeting**

3. Members agreed to discuss the following items at the next regular meeting of the Panel to be held on 14 February 2000 at 2:30 p.m. -

- (a) Progress of the Cyberport project, including clarification on recent media reports that problems encountered in the relevant EIA studies might cause a delay in the project;

- (b) The proposed Broadcasting Bill; and
- (c) Registration of Internet domain names.

4. As for the item on “assistance provided to the blind or visually-impaired persons in processing and accessing information on the computer” proposed by the Deputy Chairman, the Deputy Secretary for Information Technology and Broadcasting (2) (DS/ITB(2)) advised that the relevant policy steer was provided by the Health and Welfare Bureau. Members therefore agreed to refer the issue to the Welfare Services Panel and members of the Information Technology and Broadcasting Panel should be invited to join its meeting when this item was scheduled for discussion.

Clerk

*(Post-meeting Note: The item has been referred to the Welfare Services Panel as agreed.)*

### **III Y2K monitoring and co-ordinating arrangements for roll-over to 1 January 2000**

(LC Paper No. CB(1)753/99-00(01))

5. DS/ITB(2) briefed members on the report on the operation of the territory-wide monitoring and co-ordinating mechanism during the rollover to year 2000 (Y2K). Noting the smooth roll-over, the Chairman expressed appreciation for the work of the Administration.

#### Specific incidents

6. Mr CHAN Kwok-keung enquired if the problems encountered by the options pricing system of the open outcry system (Hang Seng Index (HSI) Options) of the Hong Kong Futures Exchange (HKFE) on 4 January 2000 were Y2K-induced. In reply, DS/ITB(2) advised that according to reports by HKFE and the Securities and Futures Commission to the Financial Sector Emergency Co-ordination Centre, the above incident had been caused by the incorrect calculation of expiration dates to trading days of each series of options traded. She however assured members that the incident had in no way affected the normal trading of the HSI 33 Options products.

7. Miss Emily LAU asked whether the failure of the 18 machines for breath-testing drink-driving suspects after the rollover to 1 January 2000 when the date of birth of the suspect was inputted had affected prosecution. In response, DS/ITB(2) assured members that the said problem with the machines, which were not mission-critical systems, had already been rectified in the early afternoon of 8 January 2000. The Chief Superintendent (Traffic), Hong Kong Police Force (CS(T)HKPF) further reported that the dates of birth of drink-driving suspects had been kept manually pending rectification of the problem.

Since by omitting the date of birth, the machines could handle the breath tests properly without compromising the accuracy of alcohol readings, prosecution had not been affected. CS(T)HKPF further confirmed that this mode of operation had worked smoothly until certification from the supplier was received confirming that the machines could function properly even with the dates of birth inputted.

8. On Miss Emily LAU's concern about the responsibility for the failure and the party to bear the rectification costs, CS(T)HKPF advised that the HKPF had already taken the necessary steps to ensure the machines were Y2K compliant. In fact, they had received the written confirmation from the German supplier of the machines as early as June 1999. Similar confirmation was again given at a meeting with the supplier in November 1999 and by one of their managing directors in mid-December 1999. As the machines were sealed and could not be tested in advance, the HKPF inevitably had to rely on the supplier for confirmation of their Y2K compliance. CS(T)HKPF however confirmed that the supplier would indemnify the Government for all rectification costs. He further reported that as a result of the incident, the HKPF was planning to follow the world-wide practice of not inputting suspects' dates of birth and the supplier would bear all adjustment costs arising from such a plan.

#### General concerns

9. Regarding the expenditure on the Y2K compliance exercise, DS/ITB(2) reported that the total estimated expenses on rectifying all mission-critical systems of the Government were \$524 million. The figure did not cover expenses incurred by other subvented organizations, such as tertiary institutions and social welfare organizations. At Miss LAU's request for more detailed information on the expenses incurred by the Government and Government-subvented organizations in the Y2K compliance exercise, DS/ITB(2) agreed to liaise with the policy bureaux and departments to obtain available data on the expenses on Y2K compliance work in Government-subvented organizations such as tertiary institutions and social welfare organizations. She also undertook to provide a breakdown of the expenses incurred by Government in its own Y2K compliance work.

Admin

10. On how Hong Kong compared with other international cities in the roll-over to Y2K, DS/ITB(2) reported that where the number and scope of Y2K-induced incidents were concerned, Hong Kong's performance was among the best in the world. She also emphasised that such success could not have been achieved without the concerted efforts of all the involved sectors over the past few years in rectification work and contingency planning.

11. As to whether any adversity had been averted as a result of activating contingency plans, DS/ITB(2) confirmed that since there had been no serious

Y2K-induced incidents in Hong Kong, there had not been any need to activate the Y2K contingency plans. She however assured members that the considerable work in Y2K contingency planning would not be wasted because such plans, which had been developed on the basis of pre-existing contingency arrangements, would continue to serve a useful purpose in future emergency situations. Indeed, departments/bureaux involved in the Y2K exercise had taken the opportunity to comprehensively review their contingency plans and identify areas for improvement.

12. In response to an enquiry from members as to when Y2K-associated risks would cease, DS/ITB(2) advised that the next Y2K critical date would be 29 February 2000 whereupon certain computers and embedded systems might fail because they did not recognise 2000 as a leap year. Thereafter, there might be Y2K-associated risks for certain systems on 1 April 2000, which was the beginning of a new financial year for many organizations. However, such risks were related to the design and operation mode of individual systems and hence, might not be common for all systems. While DS/ITB(2) was confident that Hong Kong would, as in the past, achieve a smooth rollover to future Y2K critical dates, she urged all sectors concerned to continue to exercise vigilance.

Clerk

13. The Deputy Chairman suggested that the Panel should discuss the Y2K issue again if there were serious Y2K-induced incidents at the next critical date. Otherwise, it might not be necessary to include the Y2K issue in future agendas as a standing item. Members agreed.

#### **IV Increase in service fees by mobile telephone operators**

14. The Chairman explained that this item had been included in the agenda in view of widespread public concerns over the recent apparent simultaneous price adjustments of a similar amount made by the mobile phone licensees.

#### Meeting with the Administration (LC Paper No. CB(1)743/99-00(01))

15. The Director-General of Telecommunications (DG Tel) briefed members on the investigation carried out by the Telecommunications Authority (TA) on 3 January 2000 on whether the action by the operators was part of a collusive agreement or arrangement to fix prices in a way that would prevent or substantially restrict competition in relation to the operation of the mobile phone services. The Deputy Secretary for Information Technology and Broadcasting (1) (DS/ITB(1)) then highlighted the legislative amendments put forward in the Telecommunication (Amendment) Bill 1999 (the Bill) that might help prevent such conduct and urged members to support the early passage of the Bill.

*TA's power in relation to conducting investigations*

16. Members urged TA to conduct a thorough investigation to determine whether the increase in service fees had constituted a breach of licence conditions. In particular, they pointed out that collusion to fix prices was difficult to prove as even price adjustments made consecutively instead of simultaneously might also amount to price fixing, not to mention that collusion might also take the form of a tacit understanding among the operators. Moreover, in the absence of wider powers yet to be conferred on TA by the Bill, the operators might also refuse to co-operate and turn down TA's request for information.

17. In response, DG Tel assured members by highlighting the following measures undertaken by TA -

- (a) According to General Condition (GC) 9 and Special Condition (SC) 12 of the Public Radiocommunication Service (PRS) Licences held by the mobile phone services operators, TA could request them to provide information or documents for examination and reference.
- (b) TA could refer to such circumstantial evidence as individual operators' timing of price adjustments, the amount of increase, how consumers were notified, etc. to determine whether there had been a breach of licence conditions. As the investigation was not directed at substantiating a criminal offence, proof beyond reasonable doubt such as the existence of an actual agreement might not be required to enable TA to draw a conclusion but the operators concerned would be given the opportunity to make representations.
- (c) Overseas experience and abundant case law in this area could provide valuable reference material to TA to enable it to determine if there had been any breach of licence conditions on the basis of the operators' pattern of behaviour.

18. Notwithstanding the above measures, DS/ITB(1) and DG Tel acknowledged that pending passage of the Bill, TA's power was somewhat limited. However, after passage of the Bill, TA's strengthened investigative powers and the increase in financial penalties would act as an effective deterrent to anti-competitive practices. To illustrate TA's power in conducting investigations, DG Tel pointed out that TA would be empowered under the Bill to inspect records and documents of a licensee for the purpose of enabling him to perform his statutory functions. According to proposed section 7I of the Bill, TA also had the powers to request for information from licensees and they would be required to respond. In addition, licensees who produced a

document or gave information under the new section 35A, which he/she knew to be false or misleading, would commit an offence liable to penalty on conviction.

19. At members' request for details of the investigation such as the type of information TA would require the operators to provide, DG Tel advised that as the investigation was still underway, it would not be appropriate for him to disclose such specific details at this stage. He however confirmed that each of the operators had provided an explanation of its action as well as responded to specific questions concerning the fee adjustments. Thereafter, TA had also requested the attendance of each and every licensee to give oral clarification and/or additional explanation.

20. The Deputy Chairman asked if the operators would be required to answer questions put forward by TA during the investigation under oath, and whether they would be prosecuted if they deliberately gave incomplete or false statements. In reply, DG Tel advised that as the investigation did not constitute legal proceedings and was not directed at establishing a criminal offence, the operators would not be required to give statements on oath and at present, would not be criminally liable should such statements be found to be false. However, he pointed out that under the relevant licence conditions, the operators were obliged to provide the correct information to the TA. If the information provided was false, TA could consider revoking the licence of the relevant operator on the grounds of such a dishonest act. As to whether TA had the power to require operators under investigation to give evidence under oath but that such power had never been exercised, DS/ITB(1) said that as she understood, TA had no such power but she undertook to seek legal advice. In this connection, the Deputy Chairman pointed out that under the Legislative Council (Powers and Privileges) Ordinance (Cap. 382), the Legislative Council might order any person to attend before it or its committee to give evidence or to produce any paper, book, record or document possessed or controlled by him.

Admin

*What the investigation could achieve and other possible alternatives*

21. On what TA could do should the investigation establish breach(es) of licence condition(s), DG Tel explained that in such a case, TA could issue a direction to the operators to ask them to terminate the breach by rescinding the price adjustments announced on 2 January 2000. Failure to comply with the direction might result in a financial penalty imposed by the TA under section 36C of the Telecommunication Ordinance. It would also be open to the TA to suspend or revoke the licence of an operator found to be in breach of its obligations.

22. Miss Emily LAU enquired about the actions which affected customers might take pending completion of TA's investigation if they were dissatisfied with the fee increase. In response, DG Tel acknowledged the need for TA to complete investigation and announce his decision early, and in any case before the price adjustments took effect at the end of January 2000 so as to provide certainty to consumers. As such, although similar investigations overseas usually took a few months and even years to complete, TA was making every effort to complete the investigation within two to three weeks.

23. In this connection, Miss Emily LAU and Mr LAU Chin-shek questioned whether affected customers could safely assume that they would not need to pay the new fees pending completion of the investigation, or whether the operators could still challenge TA's decision at court. They also asked the Administration to consider whether there should be a price control mechanism subjecting fees of mobile phone services to the approval of the TA.

Admin

24. In response, DG Tel confirmed that TA would release a report on the investigation within one to two weeks, and would also provide the Panel with a copy so that members could decide whether a special meeting should be held to follow up the issue. He however advised that the operators could seek judicial review against the directions issued by TA and it would be up to the court to decide on the merits of a case whether to issue a stay of execution on TA's directions.

*(Post-meeting note: The English version of TA's report on the competition aspects of the case was released in the morning of 20 January 2000 and copies of it were made available to members prior to TA's press briefing in the same morning. The report in its bi-lingual form was subsequently circulated vide LC Paper No. CB(1)849/99-00.)*

25. On the question of a price control mechanism, DG Tel cautioned that since the service fees of mobile phones might also be subject to downward adjustment as in the past few years, any price control mechanism might reduce the operators' flexibility in adjusting their fees, contrary to the interest of customers who might be able to benefit from possible price cuts triggered by market competition. The Administration thus pointed out that with the provision of a level playing field further bolstered by the provisions on competition safeguards in the Bill, a control mechanism might not be necessary as prices would essentially be determined by free market forces.

#### *Contract matters*

26. Mr Fred LI drew the Administration's attention to the problems arising from fixed term service contracts under which service providers could unilaterally increase the service charge during the term of the contract. In response, DG Tel opined that with the operation of a competitive mobile phone

market and the number portability scheme, consumers could choose to switch to another operator if their service contract was too unreasonable or unfavourable. He was therefore of the view that the most important thing was to provide a level playing field with proper monitoring of the market to be effected by the Bill, rather than to impose restrictions on the terms of service contracts. Moreover, an aggrieved consumer could always resort to civil actions under the Unconscionable Contracts Ordinance. Mr LI was unconvinced and pointed out that in the present case, all six existing operators were engaging in a concerted practice to restrict consumers' choice in a freely competitive market.

27. In response to Mr Fred LI's concern about the need to give prior notice to customers of price adjustments, DG Tel pointed out that proposed section 7F of the Bill was seeking to include in the Telecommunication Ordinance a requirement on the licensee to publish its tariffs and include in the published tariffs the terms on which the telecommunications service was provided, including a description of the service, the payment for goods or other services related to the service and any other relevant information that TA considered necessary as a part of the terms and conditions. As such, upon passage of the Bill, TA would be able to specify the font size of the printed terms, particularly those relating to fee adjustment, in a service contract and require that sufficient notice of any price adjustments be given by the operators to the customers.

#### Meeting with the Consumer Council (CC)

(LC Paper No. CB(1)737/99-00(01) and the Chinese version and revised English version of CC's submission tabled at the meeting and circulated to members thereafter vide LC Paper No. CB(1)761/99-00)

28. The Chairman welcomed representatives of CC. At his invitation, Mrs CHAN WONG Shui briefed members on CC's submission. In gist, CC was concerned that the action by the mobile phone operators to increase fees simultaneously would reduce consumers' choice. CC therefore supported TA's investigation and called upon members to support the early passage of the Bill to enhance TA's power to take effective actions against possible anti-competitive conduct.

29. On the actions CC could take on behalf of the affected customers, Mrs CHAN WONG Shui advised that CC was seeking legal advice on whether the customers had a legitimate grievance against the service providers. If the advice supported that there was a case for claims and the operators refused to rescind the price adjustments even after being so advised, CC might use the Consumer Legal Action Fund to help complainants take legal action. She however pointed out that such action might take a long time as many different kinds of service agreements were involved and each had to be examined on its own merits. In reply to Mr Kenneth TING, Mrs CHAN WONG Shui reported

that CC was also examining relevant provisions in the Unconscionable Contracts Ordinance to see if the operators' unilateral power to adjust service fees in fixed term service contracts could be challenged.

## **V The Hong Kong Supplementary Character Set** (LC Paper No. CB(1)723/99-00(02))

30. The Director of Information Technology Services (DITS) briefed members on the objective of developing the Hong Kong Supplementary Character Set (HKSCS), the criteria for inclusion of characters in the HKSCS and other related matters.

### Incorrect characters

31. Mr YEUNG Yiu-chung queried the appropriateness of including incorrect characters in the HKSCS mainly because they had a known source. In reply, the Commissioner for Official Languages (COL) pointed out that the HKSCS was not a dictionary, but a common character set for use by the general public to facilitate the development of a common Chinese language interface for data exchange between Government departments and the public. He and the Senior Chinese Language Officer, Official Languages Agency (SCLO/OLA) further pointed out that most of these characters already existed in the database of the Immigration Department, the Company Registry, the Inland Revenue Department and the Lands Department and appeared in the names of persons and companies. In consideration that these names might have been used in various kinds of identity documents, contracts and legal documents, these characters could not be excluded from HKSCS even though they had been written incorrectly.

Admin

32. In this connection, Mr Kenneth TING proposed that incorrect characters included in the HKSCS out of the above consideration should be earmarked for deletion in due course. DITS noted his view for consideration by the Chinese Language Interface Advisory Committee (CLIAC) when proposing criteria for the verification and inclusion of additional characters in the HKSCS.

Admin

33. The Deputy Chairman, on the other hand, highlighted new developments in input methods such as voice recognition systems and urged the CLIAC to consider whether HKSCS's inclusion of such incorrect characters which could not be pronounced would restrict it from benefiting from the new developments. Acknowledging his concern, DITS undertook to take into consideration such technological developments when the CLIAC updated the HKSCS and recommended on the characters to be submitted to the International Organization for Standardisation (ISO) for inclusion into the ISO 10646 standard.

34. Mr YEUNG Yiu-chung commented that restrictions should be imposed on the coinage of new characters by individuals as considerable resources would be involved in incorporating them in the HKSCS. In response, COL and SCLO/OLA agreed that there should be certain restrictions in this regard and the CLIAC had established a mechanism to propose criteria for the verification and inclusion of additional characters in the HKSCS. They further reported that the detailed operational procedures were being considered by the working groups of the CLIAC and would be finalised and released by April 2000. In this connection, SCLO/OLA supplemented that the Immigration Department would ensure that the correct form of a character was used in registering names and as a result, the need to include newly coined characters had been greatly reduced. He however cautioned that the control on coinage of new characters for use in new names by legislative means might infringe on human rights and stressed the need for caution in pursuing this measure.

#### Cantonese expressions

35. Regarding the inclusion of characters used in Cantonese expressions in the HKSCS, SCLO/OLA stressed that this had been examined with great care and only characters submitted by the Judiciary, the Hong Kong Police Force, the Department of Justice, linguistics societies and academic institutions had been included to facilitate the Police and other law enforcement agencies to prepare verbatim records of proceedings and take statements, and allow the processing of research papers on the study of Cantonese on the computer. COL further highlighted two justifications for including such characters in the HKSCS. Firstly, because of common usage, these characters would be included in the ISO 10646 standard in any case. Secondly, as exemplified by the inclusion of the word "fuck" in the Oxford Dictionary in 1972 and thereafter in other dictionaries, it might be necessary even for dictionaries to include words commonly in use at their times.

36. Mr YEUNG Yiu-chung was concerned that as a result of the inclusion of characters used in Cantonese expressions and hence some vulgar terms in the HKSCS, students might refer to the HKSCS in defending their use of these words in written work. In response, COL reiterated that including these characters in the HKSCS was in no way a means of encouraging the public to use them. The HKSCS did not provide an explanation on the meaning of the words in question, nor did it indicate how they should be pronounced. Moreover, such terms had already been in use in certain sectors of the community for a long time so that even without the HKSCS, students might still be aware of them. He further pointed out that as shown on the ICQ, youngsters liked to coin their own expressions. As such, instead of prohibiting the use of certain terms, it would be up to the education sector to look into the reasons underlying youngsters' choice of expressions and to encourage them to use the proper terms.

**VI Any other business**

37. The Chairman reminded members that each year, funds would be earmarked for overseas duty visits by committees and he invited members to propose plans for the Panel to conduct such visits during the remaining months of the current LegCo session (i.e. up to 30 June 2000). As members had not made any proposal at the meeting, the Chairman advised that a circular be issued to Panel members in this regard.

Clerk

*(Post-meeting Note: A circular has been issued vide LC Paper No. CB(1)764/99-00.)*

38. The meeting ended at 4:30 p.m.

Legislative Council Secretariat  
10 February 2000