

立法會
Legislative Council

LC Paper No. CB(1)1120/02-03
(These minutes have been seen
by the Administration)

Ref: CB1/BC/11/01/2

**Bills Committee on
Telecommunications (Amendment) Bill 2002**

**Meeting on
Thursday, 27 February 2003, at 2:30 pm
in the Chamber of the Legislative Council Building**

Members present : Hon SIN Chung-kai (Chairman)
Dr Hon David CHU Yu-lin, JP
Hon Eric LI Ka-cheung, JP
Hon CHAN Kwok-keung
Hon Howard YOUNG, JP
Hon YEUNG Yiu-chung, BBS
Hon Emily LAU Wai-hing, JP
Hon Abraham SHEK Lai-him, JP
Hon Albert CHAN Wai-yip
Hon MA Fung-kwok, JP

Members absent : Hon Fred LI Wah-ming, JP

**Public officers
Attending** : Ms Eva CHENG, JP
Deputy Secretary for Commerce, Industry
Technology
(Information Technology and Broadcasting)

Ms Gracie FOO
Principal Assistant Secretary for Commerce,
Industry and Technology
(Information Technology and Broadcasting)

Miss Linda SO
Assistant Secretary for Commerce, Industry and
Technology
(Information Technology and Broadcasting)

Mr M H AU, JP
Deputy Director-General of Telecommunications

Mr Edward WHITEHORN
Head, Competition Affairs Branch, Office of the
Telecommunications Authority

Mr Michael LAM
Senior Government Counsel, Department of Justice

**Attendance by
invitation**

: Hutchison Global Communications Limited

Ms Agnes MIU
Director of Legal & Regulatory

**Hutchison Telecommunications (Hong Kong)
Limited**

Ms Patricia HUI
Legal Counsel

PCCW Limited

Mr Stuart CHIRON
Director of Regulatory Affairs

Ms Kim HILTON
Attorney, Regulatory Affairs

Smartone Mobile Communications Limited

Mr Patrick K L CHAN
Executive Director

Mr Eric LEE
Manager, Legal & Regulatory
Affairs

TELSTRA International

Mr Stephen MEAD
Foreign Registered Lawyer
Mallesons Stephen Jaques

Consumer Council

Mr Ron Cameron
Principal Trade Practice Officer

Mr Victor HUNG
Chief Trade Practice Officer

Hong Kong University of Science and Technology

Professor XU Yan

University of Hong Kong

Professor John URE

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

Staff in attendance : Miss Connie FUNG
Assistant Legal Adviser 3

Ms Debbie YAU
Senior Assistant Secretary (1)1

Ms Sharon CHAN
Legislative Assistant 6

I Confirmation of minutes

LC Paper No. CB(1)850/02-03 - Minutes of 7th meeting on 7 January
2003

The minutes of 7th meeting on 7 January 2003 were confirmed.

II Meeting with deputations and the Administration

Meeting with deputations

Telecommunications Operators

- LC Paper No. CB(1) 963/02-03(01) -- Joint submissions from Hutchison Global Communications Limited, Hutchison Telecommunications (HK) Limited and Hutchison 3G HK Limited
- LC Paper No. CB(1) 963/02-03(02) -- PCCW Limited
- LC Paper No. CB(1) 963/02-03(03) -- SmarTone Mobile Communications Limited
- LC Paper No. CB(1) 963/02-03(04) -- Telstra International

Other Parties

- LC Paper No. CB(1) 963/02-03(05) -- Consumer Council
- LC Paper No. CB(1) 963/02-03(06) -- Professor XU Yan of the Hong Kong University of Science and Technology
- LC Paper No. CB(1)984/02-03(01) -- Professor John URE of the University of Hong Kong

Submission from the following parties not attending the meeting

- LC Paper No. CB(1) 1014/02-03(01) -- SUNDAY
- LC Paper No. CB(1) 963/02-03(07) -- Hong Kong Telecommunications Users Group
- LC Paper No. CB(1) 963/02-03(08) -- The Law Society of Hong Kong

Meeting with the Administration

- LC Paper No. CB(1)597/02-03(01) -- Information paper on "Explanatory Note on the Guidelines on the Competition Analysis of Mergers and Acquisitions in Telecommunications Markets" provided by the Administration

LC Paper No. CB(3)593/01-02	--	The Bill
LC Paper No. CB(1)2256/01-02(03)	--	Marked-up copy of the Bill
LC Paper No. CB(1)187/02-03(01)	--	Summary of deputations' views and the Administration's response
LC Paper No. CB(1)625/02-03(01)	--	Information note on issues relating to the Guidelines on the Competition Analysis of Mergers and Acquisitions in Telecommunications Markets prepared by the legislative Council Secretariat (Revised)

2. The Bills Committee deliberated (Index of proceedings attached at Appendix)

Issues which required follow-up actions/consideration by the Administration

3. At the request of members, the Administration would provide a detailed response to the views of members and deputations raised at the meeting and in the submissions received, including:

- (a) resources implications on the Office of Telecommunications Authority (OFTA) upon enactment of the Bill; and
- (b) whether it was more appropriate for a board comprising a few members, instead of the Telecommunications Authority (TA) as a single individual, to act the reviewing authority for merger and acquisition (M&A) activities in the telecommunications market.

Date of next meeting

4. Members agreed that the 9th meeting of the Bills Committee would be held on Wednesday, 19 March 2003 at 10:45 am.

III Any other business

5. There being no other business, the meeting ended at 4:15 pm.

Appendix

**Proceedings of the meeting of the
Bills Committee on Telecommunications (Amendment) Bill 2002
Meeting on Thursday, 27 February 2003, at 2:30 pm
in the Chamber of the Legislative Council Building**

Time Marker	Speaker	Subject(s)	Action Required
000000 - 000413	Chairman	Introductory remarks and confirmation of minutes of meeting held on 7 January 2003.	
000414 - 001452	Hutchison Global Communications Limited, Hutchison Telecommunications (HK) Limited and Hutchison 3G HK Limited (Hutchison)	Presentation of views.	Speaking note tabled and issued to members vide LC Paper No. CB(1) 1014/02-03(03).
001453 - 002242	PCCW Limited (PCCW)	Presentation of views.	Speaking note tabled and issued to members vide LC Paper No. CB(1) 1014/02-03(04).
002243 - 003039	SmarTone Mobile Communications (SmarTone)	Presentation of views.	Speaking note issued to members vide LC Paper No. CB(1) 1014/02-03(06).
003040 - 004109	Telstra International	Presentation of views.	Speaking note tabled and issued to members vide LC Paper No. CB(1) 1014/02-03(02).
004110 - 004607	Consumer Council	Presentation of views.	Speaking note tabled and issued to members vide LC Paper No. CB(1) 1014/02-03(05).
004608 - 005356	Professor XU Yan of Hong Kong University of Science and Technology	Presentation of views.	

Time Marker	Speaker	Subject(s)	Action Required
005357 - 010107	Professor John URE of University of Hong Kong	Presentation of views.	
010108 - 010759	Chairman Ms Emily LAU Administration	(a) Preliminary responses provided by the Administration. (b) For the time being, the Administration had no concrete plan to re-organize the existing regulatory framework for broadcasting and telecommunications.	
010800 - 011921	Mr CHAN Wai-yip SmarTone PCCW Professor XU Yan	(a) Need to strike a balance between public interest and interests of the operators to prevent oligopoly in telecommunications market. (b) Need to consult the industry on factors to be considered in competition analysis. (c) Whether it was more appropriate for a board comprising a few members, instead of TA as a single individual, to act as the reviewing authority for M&A activities in the telecommunications market.	
011922 - 012320	Mr YEUNG Yiu-chung Hutchison	(a) Whether the market <i>per se</i> or legislative measures would be more effective in enhancing market competition. (b) Concern relating to the possible damage to the market due to erroneous regulation of the market structure.	

Time Marker	Speaker	Subject(s)	Action Required
012321 - 012941	Ms Emily LAU Consumer Council Professor XU Yan Professor John URE	<ul style="list-style-type: none"> (a) Pros and cons for M&A activities to be regulated by TA or an independent body. (b) The international trends for M&A activities to be regulated by independent bodies which might pave way for the introduction of universal competition law. (c) Track record of OFTA seemed to be indicative of its capability in assessing the effect of M&A activities on competition. 	The Consumer Council was requested to provide its view on whether it was more appropriate for a board comprising a few members, instead of TA as a single individual, to act as the reviewing authority for M&A activities.
012942 - 014135	Mr Eric LI Chairman Hutchison Professor John URE PCCW	<ul style="list-style-type: none"> (a) Mr Eric LI declared his interest as an independent, non-executive director of SmarTone Telecommunications Holdings Ltd. (b) Whether the Bill was conducive to attracting overseas investment and enhancing Hong Kong's position as the telecommunications hub of Asia. (c) The international trends of de-regulation. (d) The view that the telecommunications market was already subject to comprehensive regulation to safeguard competition. (e) It might be more appropriate to regulate conduct instead of the structure of the market. 	

Time Marker	Speaker	Subject(s)	Action Required
014136 - 014320	Chairman Mr Eric LI Ms Emily LAU	Requested the Administration to provide a detailed response to the views of members and deputations, including: (a) Resources implications upon enactment of the Bill; and (b) Whether it was more appropriate for a board comprising a few members, instead of TA as a single individual, to act as the reviewing authority for M&A activities.	Administration to provide detailed response.
014321 - 014430	Chairman	Date of next meeting: Wednesday, 19 March 2003, at 10:45 am.	

Council Business Division 1
Legislative Council Secretariat
13 March 2003