# 立法會 Legislative Council

LC Paper No. CB(1)2166/02-03 (These minutes have been seen by the Administration)

Ref: CB1/BC/11/01/2

## Bills Committee on Telecommunications (Amendment) Bill 2002

## Meeting on Thursday, 19 June 2003, at 8:30 am in Conference Room A 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 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

:

Hon CHAN Kwok-keung

**Public officers Attending** 

Mr Francis HO, JP

Permanent Secretary for Commerce, Industry and

Technology

(Information Technology and Broadcasting)

Mrs Marion LAI, 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

**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

#### I Confirmation of minutes

LC Paper No. CB(1)1990/02-03 - Minutes of 13<sup>th</sup> meeting on 9 June 2003

Minutes of the 13<sup>th</sup> meeting on 9 June 2003 were confirmed.

#### II Committee Stage Amendments proposed by Hon SIN Chung-kai

LC Paper No. CB(1)2020/02-03(01) - Additional Committee Stage (tabled and subsequently issued to Amendments proposed by the members on 19 June 2003) Administration (English version only)

LC Paper No. CB(1)2020/02-03(02) - Administration's response to (tabled and subsequently issued to Committee Stage Amendments members on 19 June 2003) proposed by Hon SIN Chung-kai (English version only)

Action

(tabled and subsequently issued to members on 19 June 2003)

3

LC Paper No. CB(1)2020/02-03(03) - Letter from Consumer Council dated 18 June 2003 on Regulation of Mergers and Acquisitions in the Telecommunications Market (English version only)

LC Paper No. CB(1)2006/02-03(01) - Committee

Stage Amendments proposed by Hon SIN Chung-kai (as at 17 June 2003) (English version only)

LC Paper No. CB(1)1939/02-03(01) -(Chinese version tabled were subsequently circulated to members vide LC Paper No. CB(1)2020/02-03)

"Major issues covered by the Administration's proposal and the proposed CSAs by Hon SIN Chungkai" prepared by the Secretariat (revised, as at 17 June 2003)

LC Paper No. CB(1)1934/02-03(01) - Note on Thresholds Adopted by Competition Authorities in **Examining Mergers and Acquisitions** in Overseas Jurisdictions provided by the Administration)

LC Paper No. CB(1)1955/02-03(02) - Letter from the telecommunications operators on "Response to the Administration's note on Thresholds Adopted by Competition Authorities **Examining** in Mergers and Acquisitions in Overseas Jurisdictions" (English version only)

LC Paper No. CB(1)1903/02-03(02) - Powerpoint presentation material on the Bill provided by Hon SIN Chung-kai

LC Paper No. CB(1)1903/02-03(03) - Letter from Consumer Council dated June 2003 on Regulation of Mergers and Acquisitions in the Telecommunications Market (English version only)

LC Paper No. CB(1)1858/02-03

- Report of the Bills Committee for the House Committee meeting on 6 June 2003

LC Paper No. CB(3)593/01-02

- The Bill

- 2. The Bills Committee deliberated. (Index of proceedings attached at **Appendix**)
- 3. <u>Members</u> noted the Administration's intention to resume Second Reading debate of the Bill on 2 July 2003. However, <u>most members</u> cautioned against the hasty endorsement of the additional Committee Stage Amendments (CSAs) currently proposed by the Administration (LC Paper No. CB(1)2020/02-03(01)) pending a thorough examination of the proposed amendments. After discussion, <u>members</u> agreed in principle that the Chairman of the Bills Committee would give a verbal report to the House Committee on 20 June 2003 recommending, inter alia, the resumption of Second Reading debate of the Bill on 9 July 2003 subject to the completion of clause-by-clause examination of the additional CSAs currently proposed by the Administration at the next meeting scheduled for Tuesday 24 June 2003 at 10:45 am.
- 4. At members' request, the Assistant Legal Adviser 3 would provide a marked up copy of the additional CSAs proposed by the Administration to the Bill for members' consideration at the next meeting.

### III Any other business

5. There being no other business, the meeting ended at 9:55 am.

Council Business Division 1
<u>Legislative Council Secretariat</u>
8 July 2003

## Proceedings of the meeting of the Bills Committee on Telecommunications (Amendment) Bill 2002 on Thursday, 19 June 2003, at 8:30 am in Conference Room A of the Legislative Council Building

| Time<br>Marker     | Speaker  | Subject(s)   | Action Required |
|--------------------|--|--|-----------------|
| 000000 -<br>000123 | Chairman   | Introductory remark and confirmation of minutes of meeting held on 9 June 2003.  |                 |
| 000124 -<br>001333 | Administration<br>Chairman                                   | The Administration introduced the papers and its additional Committee Stage Amendments (CSAs) (LC Paper Nos. CB(1)2020/02-03(01) and (02)).  |                 |
| 001334 -<br>001810 | Mr Howard YOUNG<br>Administration                            | <ul><li>(a) Members of the Liberal Party supported the additional CSAs currently proposed by the Administration.</li><li>(b) Thresholds in change of control.</li></ul>  |                 |
| 001811 -<br>002324 | Mr Albert CHAN Administration Chairman Mr MA Fung-kwok       | <ul> <li>(a) Members cautioned against the hasty endorsement of the Administration's last-minute proposed CSAs pending a thorough examination of the proposed amendments.</li> <li>(b) Letter from the Consumer Council dated 18 June 2003 tabled at the meeting. (LC Paper No. CB(1)2020/02-03(03)).</li> </ul>                         |                 |
| 002325 -<br>002803 | Mr YEUNG Yiu-chung<br>Administration                         | <ul> <li>(a) Members of the Democratic Alliance for Betterment of Hong Kong supported the additional CSAs currently proposed by the Administration.</li> <li>(b) Thresholds in change of control and "associated person".</li> </ul>   |                 |
| 002804 -<br>004253 | Ms Emily LAU Administration Assistant Legal Adviser 3 (ALA3) | <ul> <li>(a) Measures to ensure that the claimed consumer/public benefit arising from an M&amp;A would be realized.</li> <li>(b) The use of the expressions of consumer benefit, public benefit/benefit to the public and public interest.</li> </ul>  |                 |
| 004254 -<br>004850 | Mr Eric LI<br>Chairman<br>Mr Abraham SHEK                    | <ul> <li>(a) Mr Eric LI objected to the introduction of the Bill as it was not conducive to attracting investment. He supported in principle the additional CSAs currently proposed by the Administration because they helped mitigate the adverse impact of the Bill.</li> <li>(b) Mr Abraham SHEK did not support the Bill.</li> </ul> |                 |

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|--------------------|--|--|---|
| 004851 -<br>010421 | Ms Emily LAU<br>Administration<br>ALA3                           | <ul> <li>(a) Ms Emily LAU upheld the pro-competition and sector-specific regulatory regime enshrined in the Bill although she considered that the most preferable approach was the introduction of a universal competition law.</li> <li>(b) Measures to ensure that the claimed consumer/public benefit arising from an M&amp;A would be realized.</li> </ul>   |   |
| 010422 -<br>010800 | Mr YEUNG Yiu-chung<br>Administration<br>Chairman                 | "Associated person" and thresholds in change of control.   |   |
| 010801 -<br>012048 | Chairman Mr Abraham SHEK Ms Emily LAU Mr Howard YOUNG Mr Eric LI | <ul> <li>(a) Mr SIN indicated he might withdraw his proposed CSAs if the additional CSAs proposed by the Administration could reflect the agreement reached between the Administration and the industry.</li> <li>(b) The industry and other parties were welcomed to provide further comments, if any, on the additional CSAs currently proposed by the Administration (LC Paper No. CB(1)2020/02-03(01)).</li> <li>(c) Members agreed in principle that the Bills Committee could give a verbal report to the House Committee on 20 June 2003, recommending the resumption of Second Reading debate of the Bill on 9 July 2003 subject to the completion of clause-by-clause examination of the additional CSAs currently proposed by the Administration at the next meeting.</li> <li>(d) Date of next meeting: 24 June 2003, at 10:45 am.</li> </ul> | ALA3 to note as per paragraph 4 of the minutes. |

Council Business Division 1 <u>Legislative Council Secretariat</u> 8 July 2003