

立法會
Legislative Council

LC Paper No. CB(1)564/03-04
(These minutes have been seen
by the Administration)

Ref: CB1/BC/11/02

**Bills Committee on
Broadcasting (Amendment) Bill 2003**

**Minutes of meeting
held on Wednesday, 26 November 2003, at 8:30 am
in Conference Room A of the Legislative Council Building**

Members present : Hon SIN Chung-kai (Chairman)
Hon NG Leung-sing, JP
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon CHAN Kwok-keung, JP
Hon Howard YOUNG, SBS, JP
Hon Albert CHAN Wai-yip
Hon MA Fung-kwok, JP

Members absent : Dr Hon David CHU Yu-lin, JP
Dr Hon Philip WONG Yu-hong, GBS
Hon Abraham SHEK Lai-him, JP
Hon Audrey EU Yuet-mee, SC, JP

**Public officers
attending** : Mrs Marion LAI, JP
Deputy Secretary for Commerce, Industry and
Technology (Communications and Technology)

Mr Eddie CHEUNG
Principal Assistant Secretary for Commerce, Industry
and Technology (Communications and Technology)

Mr Danny LAU
Assistant Director (Operations)
Office of the Telecommunications Authority

Mr Allen LAI
Senior Government Counsel

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

Action

I Confirmation of minutes

LC Paper No. CB(1)331/03-04 - Minutes of fourth meeting on
30 October 2003

The minutes of fourth meeting on 30 October 2003 were confirmed.

II Meeting with the Administration

LC Paper No. CB(3)602/02-03 - The Bill

LC Paper No. CB(1)2070/02-03(01) - Marked-up copy of the Bill

LC Paper No. CB(1)306/03-04(01) - Administration's response to
submissions from Hong Kong
Cable Television Limited and
Nagravision SA on inadequacy of
technology-only approach to pay
TV piracy

LC Paper No. CB(1)375/03-04(01) - Administration's response to issues
raised at the meeting on
30 October 2003

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

3. On whether domestic pirated viewing should be criminalized, members agreed that it might not be appropriate to take enforcement action against domestic end-users as such action might risk being intrusive. However, they considered that the Government should step up enforcement under existing legislation against the supply and import of unauthorized decoders. Furthermore, members suggested that to tackle the problem at the end-users' level, the Administration should explore other possible sanctions which were commensurate with the seriousness of domestic pirated viewing. Such options might include immediate confiscation of unauthorized decoders and the imposition of a fixed penalty for the possession/purchasing of unauthorized decoders.

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

4. Since the Administration would consider providing for criminal sanctions against domestic end-users should digitization fail to contain the problem of pirated viewing of pay TV programmes, the Chairman requested the Administration to provide the details of its legislative proposal assuming that such criminal sanctions were now warranted, including possible sanctions against the following acts:

- (a) possession of unauthorized decoders;
- (b) purchasing unauthorized decoders at points of sale; and
- (c) bringing unauthorized decoders into Hong Kong.

5. The Chairman requested the Administration to provide the required information well in advance of the next meeting so that individual members of the Bills Committee would have the opportunity to consult, where appropriate, their affiliated party/group on the proposed options and would be able to state their stance, if any, at the next meeting.

6. At the Chairman's request, the Assistant Legal Adviser 3 would provide an information note outlining possible options to deal with the problem of domestic pirated viewing with reference to paragraph 4(a) to (c) above.

Date of next meeting

7. Members agreed that the sixth meeting of the Bills Committee would be held on 6 January 2004 at 4:30 pm.

8. Members also agreed to commence clause-by-clause examination of the Bill after the Committee had completed deliberation on the policy aspects of the Bill.

9. The Chairman advised that individual members who would like to propose Committee Stage Amendments (CSAs) to the Bill should provide them early so that the Bills Committee could have ample time to consider them.

III Any other business

10. There being no other business, the meeting ended at 9:45 am.

Council Business Division 1
Legislative Council Secretariat
12 December 2003

**Proceedings of the meeting of the
Bills Committee on Broadcasting (Amendment) Bill 2003
on Wednesday, 26 November 2003, at 8:30 am
in Conference Room A of the Legislative Council Building**

Time Marker	Speaker	Subject(s)	Action Required
000000 - 000058	Chairman	Introductory remarks and confirmation of minutes of meeting on 30 October 2003.	
000059 - 000854	Chairman Mrs Selina CHOW Mr Howard YOUNG The Administration	(a) Members noted the Administration's response to submissions from Hong Kong Cable Television Limited and Nagravision SA on inadequacy of technology-only approach to pay TV piracy (CB(1)306/03-04(01)). (b) Efficacy of enforcement actions taken against the supply of unauthorized decoders under existing section 6(1) of the Broadcasting Ordinance (Cap 562). (c) According to the Administration, digitization was viable in tackling the problem of pay TV piracy since unauthorized decoders confiscated so far could only decode encrypted signals of analogue transmission.	
000855 - 002056	Chairman The Administration	The Administration introduced its response to issues raised at the meeting on 30 October 2003 (CB(1)375/03-04(01)).	
002057 - 003954	Chairman Mrs Selina CHOW The Administration Assistant Legal Adviser 3 (ALA3)	(a) The possibility of confiscating unauthorized decoders, having regard to the power to confiscate infringing copyright products or endangered species under existing legislation. (b) Whether the criminal punishment of imposing a fixed penalty or immediate confiscation of unauthorized decoders was proportionate to the criminality of purchasing or possessing an authorized decoder for non-commercial purposes. (c) Sanction against purchasers of unauthorized decoders at points of sale. (d) Factors to be considered if mere possession of unauthorized decoders for non-commercial use was to be made a strict liability offence punishable by a fixed penalty: (i) Whether it could be proved beyond reasonable doubt on-the-spot that the	

Time Marker	Speaker	Subject(s)	Action Required
		device in question was an unauthorized decoder; (ii) the need to include exemption clauses to cater for the possession or use of unauthorized decoders for legitimate purposes such as scientific study; and (iii) the need to include statutory defence provisions.	
003955 - 010136	Mr Albert CHAN Chairman The Administration Mr Howard YOUNG Mrs Selina CHOW Mr MA Fung-kwok	(a) Concern about the import of such decoders into Hong Kong from the Mainland. (b) The need to protect the legitimate interest of pay TV licensees. (c) No majority support expressed during consultation for criminalizing domestic pirated viewing. (d) The alternative to digitization. (e) The problem of subscribers of pay TV programme services subsidizing domestic pirated viewers. (f) The Administration's proposed criminal sanction(s) to deal with domestic pirated viewing if digitization could not contain the problem and members' views on the proposed sanction(s).	The Administration and ALA3 to provide the information as per paragraphs 4 and 6 of the minutes.
010137 - 010444	Chairman Members	Date of next meeting.	Members to note as per paragraphs 5 and 9 of the minutes.
010445 - 010635	Mr Howard YOUNG The Administration	Clarification of enforcement procedures against the import of unauthorized decoders.	