

# OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 9 July 2003

The Council met at half-past Two o'clock

## MEMBERS PRESENT:

THE PRESIDENT

THE HONOURABLE MRS RITA FAN HSU LAI-TAI, G.B.S., J.P.

THE HONOURABLE KENNETH TING WOO-SHOU, J.P.

THE HONOURABLE JAMES TIEN PEI-CHUN, G.B.S., J.P.

DR THE HONOURABLE DAVID CHU YU-LIN, J.P.

THE HONOURABLE CYD HO SAU-LAN

THE HONOURABLE ALBERT HO CHUN-YAN

IR DR THE HONOURABLE RAYMOND HO CHUNG-TAI, J.P.

THE HONOURABLE LEE CHEUK-YAN

THE HONOURABLE MARTIN LEE CHU-MING, S.C., J.P.

DR THE HONOURABLE ERIC LI KA-CHEUNG, G.B.S., J.P.

DR THE HONOURABLE DAVID LI KWOK-PO, G.B.S., J.P.

THE HONOURABLE FRED LI WAH-MING, J.P.

DR THE HONOURABLE LUI MING-WAH, J.P.

THE HONOURABLE NG LEUNG-SING, J.P.

THE HONOURABLE MARGARET NG

THE HONOURABLE MRS SELINA CHOW LIANG SHUK-YEE, G.B.S., J.P.

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE HUI CHEUNG-CHING, J.P.

THE HONOURABLE CHAN KWOK-KEUNG, J.P.

THE HONOURABLE CHAN YUEN-HAN, J.P.

THE HONOURABLE BERNARD CHAN, J.P.

THE HONOURABLE CHAN KAM-LAM, J.P.

THE HONOURABLE MRS SOPHIE LEUNG LAU YAU-FUN, S.B.S., J.P.

THE HONOURABLE LEUNG YIU-CHUNG

THE HONOURABLE SIN CHUNG-KAI

THE HONOURABLE ANDREW WONG WANG-FAT, J.P.

DR THE HONOURABLE PHILIP WONG YU-HONG, G.B.S.

THE HONOURABLE WONG YUNG-KAN

THE HONOURABLE JASPER TSANG YOK-SING, G.B.S., J.P.

THE HONOURABLE HOWARD YOUNG, S.B.S., J.P.

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE YEUNG YIU-CHUNG, B.B.S.

THE HONOURABLE LAU CHIN-SHEK, J.P.

THE HONOURABLE LAU KONG-WAH, J.P.

THE HONOURABLE LAU WONG-FAT, G.B.S., J.P.

THE HONOURABLE MIRIAM LAU KIN-YEE, J.P.

THE HONOURABLE AMBROSE LAU HON-CHUEN, G.B.S., J.P.

THE HONOURABLE EMILY LAU WAI-HING, J.P.

THE HONOURABLE CHOY SO-YUK

THE HONOURABLE ANDREW CHENG KAR-FOO

THE HONOURABLE SZETO WAH

THE HONOURABLE TIMOTHY FOK TSUN-TING, S.B.S., J.P.

DR THE HONOURABLE LAW CHI-KWONG, J.P.

THE HONOURABLE TAM YIU-CHUNG, G.B.S., J.P.

DR THE HONOURABLE TANG SIU-TONG, J.P.

THE HONOURABLE ABRAHAM SHEK LAI-HIM, J.P.

THE HONOURABLE LI FUNG-YING, J.P.

THE HONOURABLE HENRY WU KING-CHEONG, B.B.S., J.P.

THE HONOURABLE TOMMY CHEUNG YU-YAN, J.P.

THE HONOURABLE MICHAEL MAK KWOK-FUNG

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE LEUNG FU-WAH, M.H., J.P.

DR THE HONOURABLE LO WING-LOK, J.P.

THE HONOURABLE WONG SING-CHI

THE HONOURABLE FREDERICK FUNG KIN-KEE

THE HONOURABLE IP KWOK-HIM, J.P.

THE HONOURABLE LAU PING-CHEUNG

THE HONOURABLE AUDREY EU YUET-MEE, S.C., J.P.

THE HONOURABLE MA FUNG-KWOK, J.P.

**PUBLIC OFFICERS ATTENDING:**

THE HONOURABLE DONALD TSANG YAM-KUEN, G.B.M., J.P.  
THE CHIEF SECRETARY FOR ADMINISTRATION

THE HONOURABLE ANTONY LEUNG KAM-CHUNG, G.B.S., J.P.  
THE FINANCIAL SECRETARY

THE HONOURABLE ELSIE LEUNG OI-SIE, G.B.M., J.P.  
THE SECRETARY FOR JUSTICE

THE HONOURABLE HENRY TANG YING-YEN, G.B.S., J.P.  
SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY

THE HONOURABLE MICHAEL SUEN MING-YEUNG, G.B.S., J.P.  
SECRETARY FOR HOUSING, PLANNING AND LANDS

PROF THE HONOURABLE ARTHUR LI KWOK-CHEUNG, G.B.S., J.P.  
SECRETARY FOR EDUCATION AND MANPOWER

DR THE HONOURABLE YEOH ENG-KIONG, J.P.  
SECRETARY FOR HEALTH, WELFARE AND FOOD

DR THE HONOURABLE PATRICK HO CHI-PING, J.P.  
SECRETARY FOR HOME AFFAIRS

THE HONOURABLE MRS REGINA IP LAU SUK-YEE, G.B.S., J.P.  
SECRETARY FOR SECURITY

THE HONOURABLE FREDERICK MA SI-HANG, J.P.  
SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY

**CLERKS IN ATTENDANCE:**

MR RICKY FUNG CHOI-CHEUNG, J.P., SECRETARY GENERAL

MS PAULINE NG MAN-WAH, ASSISTANT SECRETARY GENERAL

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY  
GENERAL

**TABLING OF PAPERS**

The following papers were laid on the table pursuant to Rule 21(2) of the Rules of Procedure:

Subsidiary Legislation/Instruments	<i>L.N. No.</i>
Registration of Persons (Amendment) Regulation 2003 .....	165/2003
International Organizations (Privileges and Immunities) (Office of the Commission of the European Communities) Order .....	166/2003
Administration of Estates by Consular Officers Ordinance (Amendment of Schedule) Order 2003.....	167/2003
Consular Conventions (Application of Section 3) Order .....	168/2003
Port Control (Public Cargo Working Area) Order 2003 .....	169/2003
Telecommunications (Carrier Licences) (Amendment) Regulation 2003 (L.N. 134 of 2003) (Commencement) Notice 2003.....	170/2003
Statutes of the University of Hong Kong (Amendment) (No. 2) Statutes 2003 .....	186/2003

**Other Papers**

- No. 101 — J.E. Joseph Trust Fund  
Report for the period 1 April 2002 to 31 March 2003
- No. 102 — Kadoorie Agricultural Aid Loan Fund  
Report for the period 1 April 2002 to 31 March 2003

- No. 103 — Sir Robert Black Trust Fund  
Annual Report for the year 1 April 2002 to 31 March 2003
- No. 104 — Hong Kong Export Credit Insurance Corporation  
Annual Report 2002-2003
- No. 105 — Report of the Public Accounts Committee on Report No. 40 of the Director of Audit on the Results of Value for Money Audits and Supplemental Report of the Public Accounts Committee on Report No. 39 of the Director of Audit on the Results of Value for Money Audits  
(July 2003 - P.A.C. Report No. 40)

Committee on Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region  
Progress Report for the period July 2002 to June 2003

Report of the Panel on Transport 2002/2003

Report of the Panel on Financial Affairs 2002/2003

Report of the Panel on Economic Services 2002/2003

Report of the Bills Committee on Telecommunications (Amendment) Bill 2002

Report of the Bills Committee on Betting Duty (Amendment) Bill 2003

Report of the Bills Committee on Prevention of Child Pornography Bill

## ADDRESSES

**PRESIDENT** (in Cantonese): Addresses. Dr Eric LI, Chairman of the Public Accounts Committee, will address the Council on the Committee's Report on Report No. 40 of the Director of Audit on the Results of Value for Money Audits and on the Committee's Supplemental Report on Report No. 39 of the Director of Audit on the Results of Value for Money Audits.

**Report of the Public Accounts Committee on Report No. 40 of the Director of Audit on the Results of Value for Money Audits and Supplemental Report of the Public Accounts Committee on Report No. 39 of the Director of Audit on the Results of Value for Money Audits**

**DR ERIC LI:** Madam President, on behalf of the Public Accounts Committee (PAC), I have the honour to table our Report No. 40 today. This Report corresponds with the Director of Audit's Report No. 40 on the results of value for money audits, which was submitted to you on 7 April 2003 and tabled in the Legislative Council on 30 April 2003.

At the time when PAC Report No. 39 was finalized, the PAC's deliberations on the subject "Primary education - The administration of primary schools" were continuing. A full report on this chapter was therefore deferred. The PAC has now concluded its deliberations and has tabled the supplemental report on this chapter together with our Report No. 40.

As in previous years, the PAC has selected for detailed examination only those chapters in the Director of Audit's Report No. 40 which, in our view, contained more serious allegations of irregularities or shortcomings. The Report tabled today covers our deliberations on one of the four chapters selected. To allow ourselves more time to examine the issues in the Director of Audit's Report which relate to the University Grants Committee-funded institutions, the PAC has decided to defer a full report on these three chapters. The PAC will endeavour to finalize our report to the Council at the earliest opportunity.

I now turn to the substantive issues covered in this Report.

*Primary education - The administration of primary schools*

In examining the subject "Primary education - The administration of primary schools", the PAC is seriously concerned that although the Education Department (ED) had issued a total of 190 circulars and guidelines as at 31 December 2002, neither the school inspections nor the external audits and the School Management Committees (SMCs) have effectively ensured full compliance of the numerous detailed requirements stated in the circulars and guidelines. Cases of non-compliance appear to be commonplace among the 18 primary schools selected by Audit for examination.



Regarding human resource management of primary schools, the PAC is dismayed that some schools had not set up a proper system for recruiting teaching staff. There were also some schools that had not conducted the recruitment procedures properly. As a result, there was no assurance that the most suitable candidates had been selected to fill the posts.

The PAC is dismayed that there is no provision in the Education Regulations explicitly stating how and when the vote of the SMCs in respect of the appointment and dismissal of a teacher is to be taken. As a result, it became essential that such procedures should be provided in the constitutions of individual schools. However, the Director of Education had not exercised his power under Regulation 75(1) of the Education Regulations to require a written constitution from schools for his approval. The PAC is also dismayed that the supervisors of the 10 schools (mentioned in paragraph 3.9 of the Audit Report) had signed on the prescribed appointment forms confirming that prior approval of their SMCs had been sought regarding the appointment of teaching staff, while there is no documentary proof relating to the SMC's prior approval. Moreover, the ED had routinely accepted appointment forms without the date of the SMC's approval.

The PAC considers that if the Director of Education had exercised his power to require all schools to submit their constitutions for his approval, any doubt on the form or timing of the SMC's approval could have been removed.

The PAC urges the Education and Manpower Bureau, after the Education (Amendment) Bill 2002 has passed into law, to carry out an exercise to review the various circulars and guidelines, with a view to further reducing their number within a reasonable timeframe and providing schools with easy reference.

#### *Subvention for staff emoluments of The Legislative Council Commission*

As regards the subject "Subvention for staff emoluments of The Legislative Council Commission (the LCC)", the PAC is concerned that since 1994, the funding for staff emoluments and general expenses of the LCC has been greater than its actual requirement, leading to the build-up of the LCC's reserve. Moreover, the LCC had offered non-professional and supporting staff contract gratuities at a level of 15% of their basic salary, instead of no more than 10% as stipulated in the Financial Services and the Treasury Bureau's guidelines

for subvented organizations. The PAC appreciates the constitutional status of the Legislative Council and that the LCC enjoys a high degree of financial autonomy, but considers that it should follow as closely as possible the guidelines on the best management practices as provided in the Finance Bureau Circular Memorandums. Any decision to deviate from the guidelines should be made with strong justifications. The LCC should specifically inform the Financial Services and the Treasury Bureau of material deviations from the guidelines. It should also consider establishing a suitable avenue to explain such deviations publicly.

The PAC notes that the existing design of the one-line vote funding arrangement has partly contributed to the surpluses of funding for the LCC's staff emoluments and general expenses. It has failed to recognize the significant decrease in cash allowance rates, and the reduction in the LCC's funding requirements due to some staff of the Legislative Council Secretariat (the Secretariat) having chosen not to receive the cash allowance. Besides, the arrangement has failed to recognize that the Secretariat's annual submissions since 1997-98 had included 100% (instead of 15%) of the contract gratuities in respect of the new posts created during 1996-97 to 1998-99. It has also failed to recognize that the Secretariat's submission in May 1995 had included the contract gratuities for posts that were not filled by contract staff during the period April 1994 to April 1995.

The PAC considers that under the one-line vote funding arrangement, where the funding to the LCC has been surplus to requirements and no fundamental review has been carried out over a long period of time to ascertain the LCC's actual requirements, this could lead to the build-up of a substantial amount of reserve. We consider that the LCC would exercise its statutory autonomy responsibly so that the situation would not get out of control.

The PAC recommends that the Secretary for Financial Services and the Treasury should discuss with the LCC whether or not a ceiling for the LCC's reserve should be set, having regard to the constitutional status of the legislature; the long-standing policy to accord the LCC financial autonomy; the fact that some subvented organizations do not have a ceiling set for their reserve; as well as the LCC's operational needs, its past spending pattern, its decision made in 2002 to fund the operation of future select committees from its reserve, and other possible uses of its reserve.

As for the LCC, the PAC recommends that it should, in the light of its substantial reserve, provide to the Financial Services and the Treasury Bureau justifications for maintaining a reserve at its current level *vis-a-vis* its future expenditure requirements. If the LCC agrees to set a ceiling for its reserve, and at the end of a financial year the level of reserve exceeds the ceiling, it should return the excess amount to the Government. Alternatively, if it is agreed not to set a ceiling for the LCC's reserve and its reserve level is higher than future expenditure and contingency requirements, the LCC should consider making a voluntary offer to make a one-off payment of the excess amount to the Government.

Madam President, as always, in performing our duty, the PAC is mindful of our role in safeguarding the public interest by continuing to prod for the delivery of high quality public services in an efficient and cost-effective manner.

I wish to record my appreciation of the contributions made by members of the PAC. Our gratitude also goes to the representatives of the Administration and the LCC who have attended before the PAC. We are grateful to the Director of Audit and his colleagues as well as the staff of the Secretariat for their unfailing support and hard work.

Thank you.

**PRESIDENT** (in Cantonese): Ms Miriam LAU will address the Council on the Report of the Panel on Transport 2002/2003.

### **Report of the Panel on Transport 2002/2003**

**MS MIRIAM LAU** (in Cantonese): Madam President, I address the Council in my capacity as Chairman of the Panel on Transport. The Panel has discussed a number of important issues in this Session. I wish to talk about several of them here.

In order to meet the increasing cross-boundary traffic, the Panel continued to monitor the implementation programme of cross-boundary transport infrastructure in the territory. The Panel noted that the Administration was pressing ahead with the construction of the Shenzhen Western Corridor. The

target completion date was 2005. The Administration has also executed an agreement with the mainland authorities on the provision of a second rail crossing at Huanggang/Lok Ma Chau. The Administration was also conducting joint studies with mainland authorities on a transport link between Hong Kong and the West Bank of the Pearl River, and an express rail link between Hung Hom and Guangzhou. The Panel also reviewed with the Administration various measures to increase the capacity and efficiency of the existing cross-boundary control points.

In the light of the current fiscal deficits, the Panel agreed that the Government should, as far as practicable, encourage private sector participation through the Build-Operate-Transfer (BOT) mode to take forward transport infrastructure projects. However, the Administration should consider reviewing the application of the BOT mode so that private investment could be better protected with a view to attracting private funding in the construction of major transport infrastructure.

The Panel noted with concern that the New Hong Kong Tunnel Company Limited and the Western Harbour Tunnel Company Limited had still applied for increases in the tolls of the Eastern Harbour Crossing (EHS) and the Western Harbour Crossing (WHS) under the prevalent unfavourable economic situation. Members urged the two companies to consider deferring their toll adjustments and give due consideration to the overall interest of society in devising their tolling strategies. Members were also concerned that the toll increases by EHC and WHC would inevitably aggravate the existing congestion at the Cross Harbour Tunnel. The Panel discussed ways to improve the distribution of vehicular traffic amongst the three harbour crossings in Hong Kong and urged the Administration to formulate a clear policy and measures to maximize the use of precious tunnel resources.

The Panel was very concerned about the burden of transport costs on the travelling public in the light of the present economic situation. Apart from urging the Administration to engage in negotiations with public transport operators to lower their fares and offer inter-modal fare discounts, members also called on the Administration to establish a reasonable and objective fare adjustment mechanism which could strike a suitable balance between commercial interest and passenger interests. The Panel also urged the Administration to consider proposals and applications for fare reduction and provision of concessions by public transport operators in an active and fair manner.

The Panel discussed the proposal made by New Territories taxi associations for temporary taxi fare concession. The concession was introduced on 8 June 2003. The Panel noted that the authorities had agreed to conduct a survey to collect views from members in the trade on the continued implementation of the temporary concession. The authorities also agreed that the survey should be completed early so that the way forward could be decided during the month in which the concession was implemented.

The results of the survey published earlier in the week indicated that about 80% of the respondents were opposed to the continued implementation of the temporary taxi fare concession. In view of this, a notice will be gazetted in November to terminate this temporary taxi fare concession.

The Panel will continue to follow up illegal touting practices by taxi drivers (including taxi drivers offering discounts to passengers) and consider whether legislative amendments should be introduced to address the issue of bargaining of taxi fare by passengers.

The Subcommittee on matters relating to railways (the Subcommittee) under the Panel continued to monitor the planning and implementation programme of railway development projects in Hong Kong. The Subcommittee also frequently reviews the operation of existing railways.

The Subcommittee has been closely monitoring the progress of the implementation of West Rail, which would be commissioned later this year. Apart from urging the Administration and the Kowloon-Canton Railway Corporation (KCRC) to ensure the proper inspections and acceptance tests of the railway system, the Subcommittee also reminded them to implement service changes in respect of the Light Rail Transit System and other public transport modes in a progressive manner, taking into account the views expressed by local bodies, the transport needs of residents and the call for maintaining healthy competition in the transport market. Members also requested the KCRC to formulate an attractive pricing strategy to boost the patronage of West Rail. They also reviewed the interchange arrangements, the contingency plan and pedestrian facilities for the West Rail system.

Finally, I wish to take this opportunity to thank members of the Panel for their contribution.

Madam President, I so submit.

**PRESIDENT** (in Cantonese): Mr Ambrose LAU will address the Council on the Report of the Panel on Financial Affairs 2002/2003.

### **Report of the Panel on Financial Affairs 2002/2003**

**MR AMBROSE LAU** (in Cantonese): Madam President, in my capacity as Chairman of the Panel on Financial Affairs, I now present to the Legislative Council the Report on the work of the Panel during the year 2002-03. The Report covers the major areas of work of the Panel in the past year. I would like to highlight a few major points at this meeting.

During this Session, the Panel studied at length such subjects as Hong Kong's economic development, management of public finances and Hong Kong's financial system. In view of the serious fiscal deficit problem confronting Hong Kong, the Panel had two meetings with the Financial Secretary to discuss Hong Kong's fiscal problem and possible measures to resolve it. The Panel noted that the Administration had adopted a three-pronged approach including reviving the economy, drastically cutting government expenditure and appropriately raising revenue with the target of restoring fiscal balance by 2006-07. Members concurred with the Financial Secretary that economic revival was the key to resolving the fiscal deficit problem, but members are generally of the view that the Government had not made sufficient efforts in this area. It had only focused on cutting public expenditure and raising revenue, which created even more pressure on taxpayers. Some members considered that even the measures on cutting public expenditure were also not decisive and bold enough, thus making it difficult to effectively cutting the colossal public expenditure.

As a result of the Severe Acute Respiratory Syndrome (SARS) outbreak, the economy of Hong Kong had suffered a severe blow. The Panel monitored closely the Administration's work in relieving the hardship of the community and relaunching the economy. In this connection, the Panel made suggestions on

the Administration's economic relief package of \$11.8 billion, including suggestions on ways to use the \$3.5 billion Loan Guarantee Scheme more effectively to help the hardest hit industries and relaunching the Hong Kong economy.

During the Session, the Panel received briefings by the Chief Executive of Hong Kong Monetary Authority (HKMA) on three occasions in relation to the work of the HKMA and held detailed discussions in relation to maintaining the stability of the Hong Kong dollar, regulating the banking sector, promoting the development of financial infrastructure, and management of the Exchange Fund. As a result of the controversy over the use of \$3.699 billion from the Exchange Fund for purchase of office accommodation for the HKMA, the Panel conducted a detailed research on the governance of the HKMA, on matters concerning the HKMA's powers and functions, the arrangements on funding, staff remuneration, and accountability. The discussion covered such matters as the need for comprehensive legislation clearly specifying the statutory powers and functions of the HKMA, and the propriety of not subjecting the HKMA, as a part of the Government, to the normal public funding appropriation mechanism under which the Legislative Council was the approving authority. In this regard, some members were of the view that most of the HKMA's functions were actually no different from other government departments. They therefore considered that the expenditure of the HKMA other than that related to the management of the Exchange Fund should be subject to the scrutiny of the Legislative Council. Members also generally considered that the present salaries of senior staff of the HKMA too high and urged the Government to review the staff remuneration package, taking account of those of comparable overseas authorities.

After the penny stocks incident of last July, the Panel held five successive meetings to examine the circumstances surrounding the incident with relevant parties, receive views from organizations from the securities industry and the public, and discuss the findings and recommendations of the report made by the independent panel of inquiry (Inquiry Panel). The main concerns of members included the Government's role in the "three-tiered" regulatory framework for the securities market, the regulatory functions of the Securities and Futures Commission (SFC) and the Hong Kong Exchanges and Clearing Limited (HKEx) and the working relationship between them, the roles and responsibilities of the key individuals involved in the incident. Findings of the Inquiry Panel revealed weaknesses in the communication and delineation of roles and functions of the Government, SFC and HKEx. Later on, the Expert Group to Review the

Operation of the Securities and Futures Market Regulatory Structure (Expert Group) appointed by the Financial Secretary released a report in March this year. The Panel invited the Expert Group to brief members on its recommendations, and discussed with the Administration, SFC and HKEx on the future work plan. The most controversial recommendation of the report was the transfer of the listing function currently undertaken by the HKEx to a new Hong Kong Listing Authority to be established under the SFC. The Panel agreed that the Administration should conduct a public consultation in relation to the recommendation and the consultation process should be expedited.

The Panel appreciated the difficulties facing the stock-broking industry, in particular, the negative impact of the abolition of the minimum brokerage commission rates from 1 April this year. In this connection, the Panel held three meetings to discuss with the Administration and the industry ways to assist small and medium brokers and enhance their competitiveness. Some members shared the industry's view that the Administration and SFC should consider ways to minimize the compliance burden on small and medium intermediaries. The Panel welcomed the SFC's move to reduce its licensing fees and simplify regulatory requirements. As regards the concern about maintaining a level playing field between banks and brokers, members noted the Administration's assurance that the HKMA would adopt the SFC regulatory standards and subject banks to the same disciplinary procedures and sanctions as the SFC licensed intermediaries.

Another matter of particular concern to the Panel is corporate governance. The Panel considered that upgrading the standard of corporate governance of companies is essential to maintaining Hong Kong's status as an international financial centre. Therefore, the Panel held meetings with market practitioners, professionals, academics and regulators to discuss the subject. Members generally supported and urged for expeditious implementation of the Administration's corporate governance action plan announced in January this year which included plans to upgrade the Listing Rules and listing process, strengthen the regulation of initial public offering intermediaries, ensure effective implementation of the Securities and Futures Ordinance and early implementation of the recommendations made in the corporate governance review of the Standing Committee on Company Law Reform.

The other major areas of the Panel's work have been set out in the Report tabled. Madam President, I so submit.



**PRESIDENT** (in Cantonese): Mr James TIEN will address this Council on the Report of the Panel on Economic Services 2002/2003.

### **Report of the Panel on Economic Services 2002/2003**

**MR JAMES TIEN:** Madam President, I speak in my capacity as Chairman of the Panel on Economic Services. As the report already gives a detailed account of the work of the Panel, I would only highlight a few points here.

The Panel notes with concern that the outbreak of SARS has dealt a serious blow to the community at large, including the tourism sector. The Panel has requested the Administration to work together with the travel and tourism trades, both locally and internationally, with a view to restoring travellers' confidence in Hong Kong.

During the Session, the Panel has closely monitored the Administration's plan to develop and improve tourism infrastructure, facilities and products. Apart from urging the Administration to promote eco-tourism, green tourism, and heritage and culture tours, the Panel also reviews from time to time various projects that are being planned or developed. The Panel urges the Administration to introduce measures to further enhance the standard and quality of service of the tourism industry.

On the aviation side, the Panel continues to monitor the development of aviation infrastructure to ensure that Hong Kong has adequate passenger and cargo handling facilities to meet forecast growth in traffic demand. The Panel supports the initiative to extend the airport's passenger and cargo catchment area through co-operating with other airports in the Pearl River Delta and developing multi-modal transportation links.

In examining the policy to strengthen the position of Hong Kong as the leading hub port in Southern China, the Panel has expressed concern about the high terminal handling charges in Hong Kong and the rapid development of port facilities in Shenzhen. Apart from urging the Administration to mediate with the parties concerned with a view to achieving a charge reduction, the Panel also asks the Administration to speed up the related infrastructural works.

The Panel has examined various measures to attract more vessels to call on Hong Kong's port, to encourage more ship managers and agents to operate in Hong Kong, and to provide an effective institutional structure for the development and promotion of Hong Kong as a maritime centre.

Whilst welcoming CLP Power Hong Kong Limited to offer \$910 million as a total rebate package to both residential and non-residential customers in 2003, the Panel has expressed concern about the tariff reduction plans proposed by the two power companies under the current economic situation. Members call on the companies to give due consideration to the interest of the community at large in devising their tariff revision plans.

In discussing the interim review of the Scheme of Control Agreements by the Government with the two power companies in 2003, the Panel requests the Administration to take the opportunity to review, among other things, the permitted return under the Scheme of Control Agreements.

Gas tariff is another issue which is of concern to the Panel. Members consider it necessary for the Administration to open up the domestic gas market and explore the development and introduction of natural gas in Hong Kong.

The Panel also welcomes the new tendering arrangements for petrol filling station sites to enhance competition in the fuel supply market and to facilitate new market entrants. In reviewing the proposal, the Panel requests the Administration to monitor closely its implementation, particularly its effectiveness in lowering retail prices of petrol.

Lastly, I would like to take this opportunity to express my gratitude to all members and staffs in the work of the Panel.

Madam President, thank you.

## **ORAL ANSWERS TO QUESTIONS**

**PRESIDENT** (in Cantonese): Questions. First question.

**Efficacy of Different Methods in Treating SARS**

1. **DR LUI MING-WAH** (in Cantonese): *Madam President, in early May this year, the Government invited two Chinese medicine experts from Guangdong Province to Hong Kong to examine if the method which integrates Chinese and Western medicine (the integrated method) is more effective than the method which uses Western medicine alone (the WM method) in the treatment of patients suffering from Severe Acute Respiratory Syndrome (SARS). In this connection, will the Government inform this Council:*

- (a) *how SARS patients treated with the integrated method compare to those treated with the WM method in terms of length of stay in hospital, mortality rate, relapse rate and lung function;*
- (b) *how the medication cost of the integrated method compares to that of the WM method; and*
- (c) *as the mortality rate of SARS patients in Hong Kong has been the highest in the world, whether the authorities have assessed if such a high mortality rate is related to treatment methods and medication or some other reasons?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese):  
Madam President,

- (a) all SARS patients admitted into public hospitals have been treated with Western medicine. In addition, the Hospital Authority (HA) has drawn up protocols on the use of Chinese medicine in conjunction with Western medicine in the treatment of SARS to provide an option for those patients who wish to seek such treatment. So far, 51 patients at the acute phase and 76 patients in convalescence have been treated with an integrated Western medicine/Chinese medicine approach. The HA has also arranged the use of prophylaxis Chinese medicines for its front-line staff.

The HA has structured a mechanism for evaluating the effectiveness of integrated Western and Chinese medicine for the prevention of SARS, and in the management of convalescent SARS patients as

well as in the management of acute SARS patients. Preliminary findings should be available in two to three months' time.

- (b) The cost of the integrated approach in utilizing Chinese and Western medicine requires a computation of the costs of medicines, consultations, investigations and ancillary care. The HA has not at this stage carried out these costing computations.
- (c) The mortality rates of SARS patients is affected by three sets of variables:
  - (i) the inclusion and exclusion criteria applied in the case definition and the consistency and completeness of surveillance and reporting.
  - (ii) patient clinical profiles. According to studies performed in Hong Kong and reported in the World Health Organization (WHO) workshop, patient clinical profiles which influence mortality include: (1) age — persons over the age of 65 have a 12.7-fold risk of death as compared to those aged 35-64; (2) sex — men have a 2.5-fold risk as compared to women; (3) co-morbidity — patients who have certain chronic illnesses co-existing with SARS also have a 10.9-fold risk of mortality as compared to those without co-existing chronic illnesses; and (4) severity of illness — patients with more severe disease inferred by such variables as oxygen desaturation also have a high mortality.
  - (iii) the effectiveness of clinical treatment provided.

Based on the reports in the literature, the case fatality rate (CFR) of SARS patients in Hong Kong is at least on a par with levels achieved in other places. In Hong Kong, 70% of deaths are associated with co-morbidity and aged above 65. Latest statistics reveal that the co-morbidity CFR of local SARS patients is 50%. Patients aged 65 to 74 have a CFR of 47% and the rate for those aged 75 and above is as high as 66%. Valid comparisons of mortality rates of SARS patients in different jurisdictions can only be made if the three sets of variables influencing mortality, set out above, are standardized.

**DR LUI MING-WAH** (in Cantonese): *Madam President, from the very general reply of the Government, it can be seen that the Government has still not reviewed and drawn conclusions from the experience gained and the difficulties encountered in battling the epidemic and treating SARS patients on this occasion. May I ask the Government if it has any plans to carry out work in this area in the near future? In addition, has it made quantified comparisons with the experience of other regions in battling the epidemic in various aspects? I hope the Government can compile some literature on the experience in battling the epidemic on this occasion for future reference.*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): *Madam President, I have already given an explanation. I have said in part (c) of the main reply that the review on the mortality rates in Hong Kong has been completed. At the WHO workshop on SARS held in Hong Kong last month, the patient clinical profiles which influence mortality from SARS in Hong Kong were reported. Regarding the comparisons with the mortality rates in other jurisdictions, it is impossible for Hong Kong do so alone. It is necessary for someone to take charge of co-ordination. I have already explained that comparisons on mortality rates can only be made when the three sets of variables influencing mortality are standardized.*

**DR LO WING-LOK** (in Cantonese): *Madam President, the ways of diagnosis used by Chinese medical practitioners are inspection, listening, history taking and pulse taking. It is said that the Chinese medical practitioners concerned only looked at patients and their tongues on the television screen to make a diagnosis and then write out a prescription. May I ask the Secretary whether this method of diagnosis used in Chinese medicine meets the standards? If not, why are methods of consultation which do not meet the standards permitted in the HA?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): *Madam President, I do not agree with Dr LO Wing-lok's claim that the methods of consultation and treatment used in Chinese medicine do not meet the standards. The theories of Chinese medicine and Western medicine are certainly different. The Chinese medicine practitioners now providing consultation and treatment to*

patients in public hospitals are very experienced. They have all treated SARS patients in Guangzhou. Our present practice is to provide an option for patients to receive treatment by both Chinese medicine practitioners and Western doctors, known as the integrated method, with the consent of the attending doctor and according to a protocol. These Chinese medicine practitioners have profound experience and they adopt another set of methods to monitor the reactions of patients and look up the records to examine if they have experienced any complications according to a set of theories before deciding whether or not it is suitable for the patients to receive the integrated method. Therefore, this is a very systematic treatment founded on theories, and patients can have another choice.

**DR LO WING-LOK** (in Cantonese): *Madam President, maybe the Secretary does not understand my supplementary. What I mean is the clinical approach. Traditionally, the clinical methods adopted by Chinese medicine practitioners, which include inspection, history taking and pulse taking, meet the standards. At present, we know that the Chinese medicine practitioners only look at the patients' faces and their tongues on the television screen and they have no opportunity to come into contact with patients, then make diagnosis and write out prescriptions. This is not the traditional consultation method in Chinese medicine, therefore I said that the standards had not been met. Can the Secretary clarify why the HA allowed such consultations that do not meet the standards?*

**PRESIDENT** (in Cantonese): Secretary for Health, Welfare and Food, do you have anything to add?

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, I still do not agree with Dr LO Wing-lok that the method of consultation does not meet the standards.

I believe Chinese medicine practitioners have their own methods of assessment and we cannot adopt the standards of Western medicine to comment on their way of consultation and treatment. I know that Chinese medicine practitioners meet their patients face to face in consultation, but some of them

may not necessarily see their patients face to face in follow-up consultations. Nevertheless, they do have different methods of conducting follow-up consultations which can still demonstrate their standards.

**DR TANG SIU-TONG** (in Cantonese): *Madam President, the Secretary said in part (c) of the main reply that, "the case fatality rate of SARS patients in Hong Kong is at least on a par with levels achieved in other places". Concerning this point about par, according to the three sets of variables mentioned in part (c) of the main reply, only the first set of variables will perhaps vary between places. In that case, have other places failed to accurately and honestly report the numbers of patients and the mortality rates?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, according to the literature compiled by the WHO, the mortality rate worldwide is on average 17% and the mortality rate for people aged over 65 is over 50%. These figures are similar to those in Hong Kong.

Why is it difficult to make comparisons? This is because when diagnosing SARS, many factors have to be eliminated. We all know that SARS is atypical pneumonia. An patient from SARS-infected areas will meet the definition of SARS, however, if there are other reasons that can explain why that person has been infected, the case can then be eliminated. It can be seen from this that there are many factors that affect the way cases are confirmed or eliminated.

If we look back to some time earlier on, there were several hundred cases of probable SARS cases in the United States, but the number suddenly fell to a few dozens in a day's time. Since there is at present no clinical test capable of ascertaining whether the cases are in fact the same type of disease, therefore it is difficult to draw a definition. The SARS we are talking about refers to the disease caused by a type of coronavirus, however, this point is not included in the existing definition. Therefore, the disease called SARS that different countries talk about is not the same disease. The backgrounds of many cases are not that of atypical pneumonia. In view of this, to compare the figures of different places, this situation has to be eliminated before a better comparison can be made.

In Hong Kong, many SARS patients contracted the disease in hospital wards. Many of them were suffering from cancer, some of them had to receive renal dialysis, others had suffered from strokes, while others were suffering from serious and chronic heart problems. We can imagine that even if these patients had not contracted SARS, the mortality rate would still be high. In the event that they suffer from pneumonia induced by contagious disease, the mortality rate will even be higher. It is because many elderly people were infected in hospitals that the mortality rate in Hong Kong is higher.

**MR MICHAEL MAK** (in Cantonese): *Madam President, the Secretary pointed out in part (a) of the main reply that the HA had arranged the use of prophylaxis Chinese medicines for its front-line staff. May I ask the Secretary whether in science, clinically speaking and in pharmacology, there is concrete evidence to prove that Chinese medicine can prevent SARS? In addition, is there any interim report which can tell us whether, if the results are promising, the use of such medicine will be extended to elderly people living in homes for the aged?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, I believe that no matter in Western medicine or Chinese medicine, the difficulty in treating SARS lies in the fact that no proper scientific research has ever been conducted. We were treating SARS patients for the first time and had no idea what kind of pathogen caused SARS at all. Therefore, when we initially designed the treatment protocol, we had to estimate what kind of virus the new virus was based on past experience and theories. This is also the case with the treatment protocol in Chinese medicine. It is also designed according to Chinese medical theories and the experience in treating similar contagious diseases. No matter it is Western medicine or Chinese medicine, the initial approach is always like this because of the lack of systematic research and experience in treatment. Therefore, it was necessary to feel one's way and review each step of treatment, then make further evaluations and adjustments. This time, we invited experts from Guangzhou to Hong Kong precisely because they already have some experience and have tried out those medicines. According to their initial evaluation, there is some efficacy in the medicine and treatment adopted, so they bring them to Hong Kong to let our patients try them out. We have already explained to the patients that the medicine and treatment are still under trial, but we want to let them have one more choice. This is also the case with the front-line staff in the HA. We let them choose if they want to



receive treatment in Chinese medicine, but no initial evaluation has been conducted yet.

I have explained that we hope to complete the evaluation in two or three months' time. If it turns out that the method is considered effective and should SARS unfortunately make a comeback, we are very willing to consider extending the scope of using Chinese medicine for the prevention of SARS and let high-risk patients use it.

**PRESIDENT** (in Cantonese): Second question.

### **Assessment of Academic Qualifications Obtained in Mainland**

2. **MR YEUNG YIU-CHUNG** (in Cantonese): *Madam President, regarding the assessment of academic qualifications obtained in the Mainland, will the Government:*

- (a) *list the respective numbers of qualifications assessments conducted by the Hong Kong Council for Academic Accreditation (HKCAA) on bachelor's degrees obtained in the Mainland by residents of Hong Kong, the Mainland and other regions, in each of the past three years; and inform this Council of the number and percentage of cases in which the relevant qualifications were assessed and recognized as equivalent to local bachelor's degrees, and the names of the mainland universities concerned;*
- (b) *list the respective numbers of mainland professionals and talents admitted to Hong Kong in each of the past three years, broken down by the mainland universities which conferred the bachelor's degrees on them; and inform this Council of the details of HKCAA's assessment of the qualifications of each applicant; and*
- (c) *inform this Council whether it has drawn up a specific and clear policy on recognized qualifications obtained in the Mainland and will publish a list of recognized mainland universities with their relevant programmes; if it has, of the relevant details; if not, the reasons for that?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese):  
Madam President,

- (a) According to figures provided by the HKCAA, it has in the past three years processed 640 qualifications assessment cases that involved qualifications obtained in the Mainland, comprising 186 in 2000, 245 in 2001 and 209 in 2002. Since the HKCAA does not require the applicants to declare their nationalities, no breakdown is available in this respect.

When assessing a person's overall educational attainment, the current practice is for the HKCAA to consider in totality all the qualifications declared by the applicant. As the assessment is not meant to be a comparison of individual institutions or their programmes, the number of mainland qualifications that are considered equivalent to local degrees is not available. The HKCAA has not conducted any comprehensive assessment to compare individual qualifications conferred by mainland tertiary institutions with relevant qualifications awarded by the local institutions.

- (b) The Admission of Talents Scheme (Talents Scheme) and the Admission of Mainland Professionals Scheme (Professionals Scheme) were launched in December 1999 and June 2001 respectively. By mid-June 2003, the Immigration Department (ImmD) has approved a total of 279 Talents Scheme applications and 310 Professionals Scheme applications. Applicants are required to have a good educational background, meaning in most cases a relevant degree. The ImmD, however, has not conducted any survey on the institutions attended by the talents and professionals admitted to Hong Kong. Applicants normally hold graduation certificates issued by nationally recognized degree-awarding institutions.

The Talents and Professionals Schemes do not require the applicants to undergo qualifications assessment by the HKCAA. In case of doubt over the authenticity of the qualification documents, the ImmD will approach the China Academic Degrees and Graduate Education Development Center at Tsinghua University for advice.

- (c) At present there is no formal arrangement for the Government of the Hong Kong Special Administrative Region (SAR) to recognize in general academic qualifications conferred outside Hong Kong, including those awarded in the Mainland and in other countries. The private sector, tertiary institutions and professional bodies may decide for themselves whether to accept academic qualifications awarded in the Mainland and other countries for enrolment or recruitment purposes.

**MR YEUNG YIU-CHUNG** (in Cantonese): *Madam President, the Secretary mentioned in part (c) of the main reply that there was no formal arrangement for the SAR Government to recognize in general academic qualifications conferred outside Hong Kong, including those awarded in the Mainland and in other countries. May I ask the Secretary whether, firstly, as 36 mainland universities were recognized by the Government before the reunification, the current policy is retrogressive? Secondly, will the 36 mainland universities recognized in the past still be recognized today?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, there is no question of the Government recognizing or not recognizing any university. The current practice is to assess a person's overall academic qualification.

**MR YEUNG YIU-CHUNG** (in Cantonese): *Madam President, I wish the Secretary to clarify one thing, that is, the SAR Government used to recognize that the relevant qualifications conferred by 36 mainland universities were equivalent to local bachelor's degrees. Will these qualifications still be recognized now?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, what we used to recognize in the past will still be recognized now. However, I have explained that it does not necessarily mean that we recognize the individual institution, we just recognize all the qualifications of an individual.

**DR RAYMOND HO** (in Cantonese): *Madam President, first of all, I have to declare an interest. I was the Vice-Chairman of the HKCAA and Chairman of its Executive Committee when the HKCAA was found.*

*Madam President, the Secretary explained in his main reply that the HKCAA only assessed the applicant's overall educational attainment. May I ask the Secretary if the HKCAA will conduct an overall qualifications assessment if a mainland university makes such a request, or can such assessments be made only on the initiative of the Hong Kong side?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, at present, no mainland university has requested the HKCAA to conduct assessment of it, as it involves the autonomy of mainland universities.

**DR RAYMOND HO** (in Cantonese): *Madam President, my question was, if a mainland university makes such a request for an overall qualifications assessment, will the HKCAA entertain it?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, it is difficult for me to answer this "if" question. I believe if there is really such a request, we would consider it.

**MR YEUNG YIU-CHUNG** (in Cantonese): *Madam President, the Secretary mentioned in part (a) of the main reply that consideration would be given to the person's overall educational attainment. Some people criticize the assessment process of the HKCAA as a black-box operation. May I ask the Secretary if he will request the HKCAA to publicize the criteria of assessment?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, the practice of the HKCAA is already very clear, as it has formulated a set of guidelines to instruct people who intend to make the

application how an application should be made. The HKCAA also has its own website. Anyone who wishes to get the information in this respect can obtain it through the abovementioned channels.

**DR RAYMOND HO** (in Cantonese): *Madam President, the Secretary mentioned in the main reply that the HKCAA had processed 640 qualifications assessment cases. Can the Secretary provide the relevant information later?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, I can enquire the HKCAA about whether the relevant information could be made public, since it may involve personal privacy issues. (Appendix I)

**MR CHAN KAM-LAM** (in Cantonese): *Madam President, since Hong Kong and the Mainland have signed a Closer Economic Partnership Arrangement, a lot of professionals therefore wish to provide services reciprocally in each other's places, but that involves the mutual recognition of academic and professional qualifications. May I ask the Secretary if the Government will consider assisting relevant professional bodies to make reciprocal recognition arrangements and to acquire mainland licences by way of sitting for examinations in Hong Kong or to acquire Hong Kong licences by way of sitting for examinations in the Mainland?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, Hong Kong welcomes the admission of talents. For that reason, if there is any problem, we are pleased to provide assistance. However, I have to make it clear that for the time being, the major part of our job is to verify the authenticity of documentation. If there is any question, we would follow it up accordingly.

**PRESIDENT** (in Cantonese): Third question.

**Fire Resistance Specifications for Smoke Doors in Public Housing Blocks**

3. **MR ANDREW CHENG** (in Cantonese): *Madam President, it is learnt that the fire resistance specifications for smoke doors in public housing blocks were amended in 1996. In this connection, will the Government inform this Council:*

- (a) *of the current fire resistance specifications for smoke doors in public housing blocks;*
- (b) *in respect of the public housing blocks which were completed in or before 1996, the number of smoke doors which do not conform to the current fire resistance specifications and the fire resistance capability of these smoke doors, broken down by housing estate and court; and*
- (c) *whether the authorities will consider replacing the public housing blocks smoke doors which do not conform to the current fire resistance specifications; if so, when they will be replaced; if not, the reasons for that?*

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese):  
Madam President, my reply to the three-part question is as follows:

- (a) The current fire resistance specifications for smoke doors in public housing estates of the Housing Authority are the same as the technical requirements of the Building (Construction) Regulations and the Code of Practice for Fire Resisting Construction (the Code), that is, smoke doors should be equipped with self-closing device, and have 30-minute fire resistance and fire resistance certificate.
- (b) The Code was amended in 1996 to require fire resistance certificates issued by accredited laboratories for smoke doors. However, this amendment had no retrospective effect on existing buildings. There are about 32 000 smoke doors in public housing estates completed before 1996, of which 26 400, that is, 83% of the total number, comply with the 30-minute fire resistance requirement. The remaining 5 600 smoke doors in 15 estates are non-standard,

featuring glass panel exceeding the statutory limit of 0.4 sq m and, in some cases, adjacent partition made of wood or glass. Breakdown by estate is at the Annex.

- (c) In 1998, the Housing Department (HD) commissioned a consultancy to evaluate the fire escape safety of the block types used in the 15 estates with non-standard smoke doors mentioned above. The findings indicated that with good ventilation, smoke could dissipate rapidly in case of fire, giving adequate means of escape and a safe condition equivalent to that envisaged by statutory requirements. Moreover, taking into account building design, fire services installations and effective fire prevention management, the overall fire safety level of these blocks is comparable to that of Code-complying private buildings of the same age.

Notwithstanding, the HD always seeks to enhance fire safety in public housing estates. Last year, we decided to replace the entrance doors for 150 000 public housing flats located at dead ends at a cost of \$400 million. As part of this exercise, the HD will also gradually replace the 5 600 doors and partitions in the 15 public housing estates mentioned above to meet the current statutory specifications.

Annex

Number of smoke doors with non-standard design  
in public housing estates

	<i>Estate</i>	<i>No. of smoke doors</i>
Public Rental Housing estates	Cheung Hong	420
	Cheung Wah	210
	Fu Shin	630
	Kwong Fuk	210
	Lei Tung	858
	Lok Wah South	420
	Long Ping	315
	Mei Lam	105
	Po Lam	420

	<i>Estate</i>	<i>No. of smoke doors</i>
	Shan King	630
	Tsui Lam	420
Sub-total	11	4 638
Tenants Purchase Scheme estates	Pok Hong	315
	Tin Ping	315
	Tsing Yi	210
	Tsui Ping North	105
Sub-total	4	945
Total	15	5 583

**MR ANDREW CHENG** (in Cantonese): *Madam President, it is inconceivable and unacceptable that smoke doors in public housing blocks are non-standard and do not meet the fire resistance specifications. Part (c) of the main reply mentioned the proposed replacement of doors for public housing flats at a cost of more than \$400 million by the Government. If the 5 600 smoke doors are to be replaced now, I believe they are not included in the \$400 million budget; even if they are included, should the Government attach more importance to the replacement of smoke doors and give them a higher priority? It is because I believe the public will not accept the fact that smoke doors are not fire resistant.*

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): *Madam President, I explained in the main reply that these 5 600 smoke doors had fire resistance capability, but they were non-standard because the glass panel exceeded the statutory limit of 0.4 sq m and, in some cases, adjacent partition were made of wood or glass, they therefore were unable to fully comply with statutory requirement. I have also explained in part (c) of the main reply that we commissioned a consultancy in 1998 to evaluate the fire safety of these smoke doors. As these housing blocks have other advantages in building design such as good ventilation, smoke can therefore dissipate rapidly. Moreover, because of the fire services installations and effective fire prevention management, their overall fire safety level is comparable to that of Code-complying private buildings of the same age. These are the findings of the 1998 evaluation.*



Recently, we decided to replace the entrance doors for 150 000 public housing flats located at dead ends at a cost of \$400 million. We would also replace the 5 600 smoke doors when works are carried out in the 15 public housing estates. The works are expected to complete by the middle of next year.

**MR LEUNG YIU-CHUNG** (in Cantonese): *Madam President, the Secretary explained in part (c) of the main reply that according to the findings of the evaluation and tests conducted by the consultancy, the overall fire safety level of these blocks was comparable to that of Code-complying private buildings of the same age. I feel that the reply carries two messages: the first is that these blocks are fine without problems as they are comparable to private buildings of the same age; another message is that private buildings are more or less the same, that is, they also have the same problem as they do not meet the current requirement. If they are unable to meet the current requirement, then what should we do? In fact, both do have problems. Although the Secretary said that the Government would improve the fire safety level of public housing estates as soon as possible.....*

**PRESIDENT** (in Cantonese): Mr LEUNG, what supplementary question would you like to raise?

**LEUNG YIU-CHUNG** (in Cantonese): *Madam President, may I ask the Secretary what part (c) implies? Whether they are safe or unsafe? If they are unsafe, then not only public housing estates are unsafe, private buildings are also unsafe. What should we do?*

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): Madam President, I think we should not interpret that in this way. I think the thrust of part (c) of the main reply is that even though we had yet to decide to replace these smoke doors in 1998, we commissioned a consultancy to evaluate the safety level. The findings indicated that the overall fire safety level of these blocks was comparable to that of Code-complying private buildings of the same age, as there were other complementary installations. In spite of this, we have

decided to replace these smoke doors and we hope that the exercise can be completed by the middle of next year.

**PRESIDENT** (in Cantonese): Mr LEUNG Yiu-chung, has your supplementary question not been answered?

**MR LEUNG YIU-CHUNG** (in Cantonese): *Madam President, I know public housing estates are comparable to private buildings, that is precisely the point I wish to ask. Even they are comparable to private buildings, are they actually safe and sound? Since public housing estates have problems, the Government therefore decided to replace the smoke doors now, but what about private buildings? Should we leave them unchecked and unsafe?*

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): Madam President, I said that they are comparable to Code-complying private buildings. With regard to private buildings non-compliant with the Code, we would take prosecution actions against them.

**MR IP KWOK-HIM** (in Cantonese): *Madam President, the Secretary mentioned in part (c) of the main reply that the Government would replace the entrance doors for 150 000 public housing flats located at dead ends at a cost of \$400 million. May I ask whether doors found already damaged in the course of replacement, and whether hollow doors are excluded? The Annex listed the number of smoke doors with non-standard design in 15 public housing estates, is that all and does it include all the estates where the smoke doors have to be replaced?*

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): Madam President, I would answer the second part of the supplementary first. The answer is the exercise includes all the smoke doors that should be replaced.

As to the first part of the supplementary, I remember I already explained that in a relevant question last year, that we would replace the entrance doors for

150 000 public housing flats located at dead ends at a cost of \$400 million, because these flats have only one means of escape. Therefore, from the safety perspective, we considered that they should be replaced by solid doors. As other flats have more than one means of escape, therefore they would not be included in this scheme. However, if a tenant needs to repair the entrance door of his flat due to other reasons, we would replace the entrance door for that particular unit, but this type of replacement is not included in the abovementioned scheme. Other maintenance works required in that particular flat would be carried separately.

**MR ALBERT HO** (in Cantonese): *Madam President, I asked the Government before whether entrance doors in public housing blocks could meet the fire resistance specifications, the Government admitted that some of them were non-standard, therefore they had to be replaced. This time around, we enquired about smoke doors and the Government replied that some had to be replaced. I am gravely concerned. How many of them fail to meet the fire resistance specifications? Will the Secretary provide us with the information only when we have asked a question? Can the Secretary tell us once and for all the number of installations in public housing estates that are non-standard and that the Government plans to have them replaced?*

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): Madam President, in fact this question should not be answered by me here. Every time Honourable Members raise a question to me, it is the question which confines the scope of my answer. Whatever Honourable Members ask me, I would give the answer within the scope of the question. It is impossible for me to give Honourable Members answers to questions that have not asked as if I am enumerating my family treasures. Last time Members asked about the entrance doors, I gave answers about entrance doors; now Members have asked me about smoke doors, I therefore give the answers about smoke doors.

**MR ALBERT HO** (in Cantonese): *Madam President, does the Secretary know how many items are non-standard? Are there plans to replace them? It is not necessary for the Secretary to give us the details now, but he may reply in writing.*

**PRESIDENT** (in Cantonese): Secretary, do you have anything to add?

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): Madam President, there are only two types of doors, one is the entrance door of a unit, and the other is the smoke doors at staircases. I cannot think of a third type.

**DR RAYMOND HO** (in Cantonese): *Madam President, the Secretary said that the fire resistance specifications before 1996 were different from the specifications drawn up after 1996, as a result, smoke doors in 15 estates were unable to comply with the specifications amended in 1996. If the buildings designed by the HD are in conformity with the Buildings Ordinance, then are the requirements of the Buildings Ordinance drawn up before 1996 lower than that of the Code amended in 1996? Although the requirements are lower, but is good ventilation really good enough as the Secretary explained in part (c) of the main reply?*

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): Madam President, the answer is definite, as the Code before 1996 was drawn up according to the standard of that time, we did not anticipate that a new standard would emerge in future. However, as the new Code was drawn up in 1996, all of our evaluations were based on the new Code. For that reason, in 1998, we conducted an evaluation on non-compliance with the Code and we came up with some findings. Now as we have decided to replace the entrance doors for 150 000 public housing flats at a cost of \$400 million, we will therefore take this opportunity to replace those 5 000-odd smoke doors in view of their non-compliance as part of this exercise.

**DR RAYMOND HO** (in Cantonese): *Madam President, I made my supplementary very clear to the Secretary just now, that is, whether the fire resistance specifications under the building construction legislation were lower than that of the Code issued in 1996?*

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): Madam President, I do not know whether or not the specifications were lower, but the legislation before 1996 and the Code required that smoke doors should have a Fire Resistance Period (FRP) of not less than half an hour; the legislation amended in 1996 and the Code require that smoke doors should be certified by recognized laboratories that the products have a FRP of not less than half an hour. For that reason, our evaluation is based on the relevant legislation.

**PRESIDENT** (in Cantonese): This Council has spent more than 15 minutes on this question. Last supplementary.

**MR ALBERT HO** (in Cantonese): *Madam President, the Annex has listed only public housing estates, and it seems that estates under the Tenants Purchase Scheme have not been included. May I ask the Secretary if the authorities intend not to replace fire-resistant doors for housing units which have already been sold to tenants even if the doors are non-standard?*

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): Madam President, before selling the units, we would in general renovate non-standard installations, areas which needed repairs or refurbishments proposed by residents. After the units are sold, we consider that the new owners should assume the responsibility if there is any change in legislation or if there is any enhancement in requirement.

(Mr James TO indicated a wish to speak)

**PRESIDENT** (in Cantonese): Mr TO, I said that it would be the last supplementary. Besides, the time allocated for this question has already expired.

**MR JAMES TO** (in Cantonese): *Madam President, but the Secretary has not answered the supplementary.*

**PRESIDENT** (in Cantonese): Mr TO, it should have been raised by the Member who asked the supplementary, not you.

Fourth question.

### **Financial Situation of Hospital Authority**

4. **DR LAW CHI-KWONG** (in Cantonese): *Madam President, regarding the financial situation of the Hospital Authority (HA), will the Government inform this Council:*

- (a) *whether it has assessed the financial implications on the HA brought about by the outbreak of the Severe Acute Respiratory Syndrome (SARS); if so, of the assessment results;*
- (b) *given the HA's decision last month to defer the departure dates of the health care personnel who would depart under the Voluntary Early Retirement Programme (VERP), of the impact of the HA's decision on its financial situation, and whether the authorities will ask the HA to review if its manpower requirement has changed after the epidemic, so as to ensure that there is sufficient health care personnel to provide the necessary services; and*
- (c) *whether the authorities will review the amount of funding allocated to the HA and exempt the HA from implementing the efficiency saving programme and having to cut its operating expenditures, or will make adjustments to the relevant targets?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese):  
Madam President,

- (a) Up to June 2003, the HA has incurred some \$400 million additional expenditure in the fight against SARS. The additional expenditure was required for the recruitment of additional staff to combat SARS, procurement of protective gear, drugs, medical supplies,

consumables and medical equipment, conducting minor facility improvement works at public hospitals, stepping up cleansing and security services, and so on. As SARS has now come under control, the HA is assessing the financial implications brought about by SARS for the remainder of the 2003-04 financial year, including the impact of SARS on the service delivery model, the need to enhance its capacity and capability in handling a possible resurgence of SARS later in the year. On facilities improvement, \$409.8 million is required to enhance the infection control facilities for nine major acute hospitals as an interim measure to strengthen the isolation facilities in public hospitals for handling major outbreaks of infectious disease. The HA is assessing the financial implications for the construction of purpose-built infectious disease facilities in the longer term.

- (b) The SARS outbreak has imposed tremendous pressure on the manpower resources of the HA. In order to ensure that there would be sufficient manpower to meet service needs, the HA decided in April 2003 to extend the final date of release of approved applicants under the VERP by six months from 1 November 2003 to 1 May 2004. As a result of deferral of the departure dates of staff, the projected savings to the HA from the implementation of VERP is estimated to be reduced by \$87 million in 2003-04.

The HA is reviewing its service delivery model in the light of the SARS experience to better prepare public hospitals for future outbreak of infectious disease. The manpower requirements under the new operational model will be assessed in that context. We shall ensure that there will be sufficient manpower within the public hospital system to cope with possible outbreak of infectious disease in future, while meeting the daily service requirements of the community in other clinical specialties.

- (c) The Government has provided additional funding support to the HA for the fight against SARS. The Finance Committee (FC) approved on 31 March 2003 the creation of a new commitment at \$200 million for the fight against SARS, of which \$128.1 million

was allocated to the HA to meet its additional expenditure related to SARS up to end April. With the approval of the FC on 27 June, \$200 million was allocated to the HA to set up a Training and Welfare Fund for the HA to strengthen training for health care staff of HA to enhance their expertise in infectious disease control in the hospital setting and to provide assistance to those health care staff who contracted SARS while on duty. On 2 July, the Public Works Subcommittee endorsed our funding proposal amounting to \$409.6 million to enhance the infection control facilities in nine major acute hospitals. Having regard to the committed funding requirements as well as the estimated additional funding requirements for the fight against SARS in respect of the HA and the Government in the coming months, we intend to seek the FC's agreement on 18 July to increase the commitment for the fight against SARS by \$500 million. As explained in (a) above, the HA is assessing the financial implication of the SARS outbreak for the remainder of the 2003-04 financial year. The Administration will assess the HA's estimates on financial implications once available and review the adequacy of funding allocated to the HA in that context.

**DR LAW CHI-KWONG** (in Cantonese): *Madam President, the Secretary has actually failed to address most of the issues raised in part (c) of the main question. "Exempt the HA from implementing the efficiency saving programme" means a cut of expenditure by about 4.8% within four years, and "having to cut its operating expenditures" means a \$20 billion expenditure cut by the Government. Proportionally, the HA may also need to cut its expenditure by some \$2 billion. As regards "or will make adjustments to the relevant targets", is it true that the Secretary for Health, Welfare and Food did not give any reply because he did not know the answer? Should he defer to the Financial Secretary?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, as I said in my main reply, we are still making an assessment at this stage. The HA still has to consider its future service delivery model and resources requirements, and the Government will have to consider whether such requirements are reasonable. We must first review the situation before a decision can be made.



**DR YEUNG SUM** (in Cantonese): *Madam President, though the Secretary has deferred the departure date for those staff who have participated in the VERP to 1 May next year, more than 1 900 people will still be leaving the service by then. Meanwhile, the HA will also be providing 1 300 additional isolation beds in nine major acute hospitals, so manpower demand will certainly increase. Will the authorities increase the budget for the recurring expenditure of the HA and its manpower in response to the requirement?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, the HA is now recruiting new medical and health care personnel. We have already promised to release those staff who have joined the VERP, only that we have deferred their departure date for six months. We are now recruiting and training new medical and health care staff. On the whole, we must make a thorough assessment and revise the existing hospitalization service delivery model. In this regard, we hope that the surgical ward can provide more daytime hospital beds so that day surgeries can be conducted. As regards medical wards, our recent experience with the SARS outbreak shows that many elderly home inmates have to be hospitalized very often. It is difficult to transfer them from one hospital to another, and such transfer will increase their chances of infection. Therefore, we will enhance out-reach geriatric visitation services for elderly residential institutions so as to reduce the hospitalization needs of the elderly. Granting a success with this, then in the future, hospitals may need fewer hospital beds than before, and we can also provide better services in hospitals while maintaining the existing level of manpower.

**DR YEUNG SUM** (in Cantonese): *Madam President, I asked the Secretary just now whether recurrent expenditures have to be increased.*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, our focus is not on finding out what changes to the service delivery model can reduce manpower. If manpower is to be increased, then expenditures certainly must be increased. Therefore, the HA must first assess the manpower requirement for the delivery model of public health services in the future before the relevant expenditure required can be computed.

**MR JAMES TO** (in Cantonese): *Madam President, my supplementary question is on whether the SARS outbreak has produced an impact on the financial situation of the HA. May I ask whether the following facts are related to financial commitments? In its submission to the Inquiry Commission on SARS, the Hong Kong Doctors Union said Dr James LAU Tai-kwan who passed away in March as a result of performing his duty was refused admission by Queen Mary Hospital when he first contracted the disease, and his two patients had to stay in Baptist Hospital because they were refused admission by Princess Margaret Hospital. It was suspected that this might have led to the small-scale outbreak in Baptist Hospital. May I ask whether the fact that the cases of the late Dr James LAU Tai-kwan and the two patients whom he referred to Princess Margaret Hospital have anything to do with financial considerations?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, I do not think I can comment on any individual cases here. However, in general, a public hospital should not turn away a patient who should be hospitalized simply because of their own financial situations.

**MR FRED LI** (in Cantonese): *Madam President, the Secretary says in part (a) of his main reply that the HA has incurred \$400 million additional expenditure in its fight against SARS and it is also said in the latter part of the main reply that the HA has been allocated \$128 million to cope with its additional expenditure. We can see that there is still a shortfall of \$272 million. Does the Government plan to let the HA use its own reserve to cover this shortfall? If yes, will this have a negative impact on the quality of hospital services?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, as soon as the epidemic broke out, the Government already undertook to allocate additional funds to the HA to fight the epidemic. As I point out in part (c) of the main reply, we intend to request the FC on 18 July to approve an additional funding of \$500 million for the purpose of fighting against SARS. Part of this additional funding is reserved for the HA.

**MR FRED LI** (in Cantonese): *Madam President, the Secretary has not actually answered my supplementary question as to whether the Government will apply for an additional funding of \$400 million from the FC and reimburse the total shortfall to the HA.*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, I thought I had already answered the question. The answer is "yes".

**DR LO WING-LOK** (in Cantonese): *Madam President, during the SARS outbreak, many medical and health care staff of the HA were infected, so it may be necessary to offer them a certain level of compensation. May I ask the Secretary if the HA has earmarked a sum of money in its budget or its future budget for purposes of making compensations?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, I understand that the HA has already taken out insurance against injuries at work, so compensations will be made to the staff concerned in accordance with the terms of the policy. I also said earlier in the main reply that the Government had already allocated \$200 million to the HA to set up a Training and Welfare Fund. I understand that the HA plans to allocate a sum from this Fund to help the medical and health care staff who contracted SARS. But this will not be in the form of compensation.

**MISS CHOY SO-YUK** (in Cantonese): *Madam President, the Secretary says in part (c) of the main reply that the infectious disease control facilities of the nine major acute hospitals will be improved. May I ask the Secretary, after the infectious disease control facilities of these nine major acute hospitals have been improved, how many such patients can they cope with? Furthermore, has the Government assessed whether this figure can cope with the situation and whether additional funding is necessary?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, we will apply to the FC again for additional funding to enhance such facilities, but the Public Works Subcommittee has already indicated support for this project. We will provide 1 280 additional isolation hospital beds in the nine major acute hospitals; some of these beds are in single rooms; some are in double rooms and some are in four-person rooms. There will be 537 hospital beds in single and double rooms. In designing the ventilation and toilet facilities of these rooms, the factor of possible infection is fully taken into account. This is an immediately feasible measure and we expect it to be implemented in three months' time. Later on, we will consider introducing some additional long-term measures such as the provision of several hundred additional hospital beds in a few hospitals. A decision will be made within three months and it may be necessary to apply for additional funding from the FC in the future.

**PRESIDENT** (in Cantonese): We have spent more than 15 minutes on this question. This is the last supplementary question.

**MR MICHAEL MAK** (in Cantonese): *Madam President, as regards manpower, I think the Secretary is now faced with the problem of "it never rains but pours" because in addition to the VERP, there is also a Civil Service Voluntary Retirement Programme — which was not mentioned by the Secretary. That is why the Secretary says there is a great pressure on manpower. However, the Secretary says in part (b) of the main reply that the HA will seek to satisfy the demand for other daily clinical specialist services while ensuring that there will be sufficient manpower within the public hospital system. May I ask the Secretary what his overall plan is? What are his contingency measures? Will the date for the early retirement of staff be further deferred?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, I believe if the HA thinks that there is a need, it may also consider the idea of deferring the departure dates for staff who have participated in the VERP. Of course, the HA must consider whether there is an operational need for those staff joining the VERP. I believe the HA will reassess its staffing requirement. I also believe we can review the future release schedule, but first of all, I have to see what undertaking the HA has made to its staff.

**PRESIDENT** (in Cantonese): Fifth question.

### **Nuisance Caused by Prostituting Activities in Sublet Rooms**

5. **MR FREDERICK FUNG** (in Cantonese): *Madam President, it is learnt that some women engage in prostitution in sublet rooms of single-block private flats, causing great nuisance to other residents in the same flat. In this connection, will the Government inform this Council of:*

- (a) *the current number of sublet rooms that are being used as vice establishments, as estimated by the police, together with a breakdown by police districts;*
- (b) *the number of complaints about nuisances caused to other residents received in each of the past three years, together with a breakdown by police districts; and*
- (c) *the measures in place to prevent residents from being disturbed?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, my reply to Mr Frederick FUNG's question is as follow:

- (a) According to the information from the police, there are about 350 sublet rooms partitioned from private flats. Their distribution is as follows:

Yau Tsim District:	79
Kowloon City District:	11
Sham Shui Po District:	230
Yuen Long District:	6
Tsuen Wan District:	30

No similar partitioned flats were found in other police districts at the moment. The number of sublet rooms in each of the flats varies from two to 11. Since most of the sublet rooms are leased on a short-term tenancy, mobility of tenants of such sublet rooms is quite

high. At present, the police do not have an accurate assessment on how many of these sublet rooms are being used for prostitution purpose.

- (b) In the past three years, the police have only received complaints about nuisances caused by vice activities in sublet rooms to other residents in Kowloon City District and Tsuen Wan District. The relevant statistics are as follow:

<i>District</i>	<i>2000</i>	<i>2001</i>	<i>2002</i>	<i>Total</i>
Kowloon City	1	1	1	3
Tsuen Wan	0	9	8	17
Total	1	10	9	20

- (c) To address the problem related to nuisance caused by vice activities in sublet rooms, the police adopt a two-pronged approach. On the one hand, the Police Community Relations Unit of various police districts will liaise with owners' corporations or mutual aid committees of private buildings to advise them on building security and help ensure the safety of the residents. On the other hand, special investigation teams at the district level and crime units at different levels will take patrol and arrest actions targeting at street prostitutes and sublet rooms. They will investigate whether vice activities conducted in sublet rooms were controlled by organized syndicates and prevent such prostitution activities from causing nuisance to the community.

The police will handle any complaints related to nuisance caused by vice activities in sublet rooms efficiently so as to ensure the safety of residents living in buildings with partitioned flats and to minimize the extent of disturbance caused.

Apart from the above, the deed of mutual covenant of an individual building usually includes provisions specifying that owners should not make or arrange to make structural changes to their property or other parts of the building. An owner also has the responsibility for all other owners of the building to ensure his own flat is properly maintained. In case alteration of flats into sublet rooms is in

contravention of the above provisions, administrator of the building concerned can take action in accordance with the deed of mutual covenant.

**MR FREDERICK FUNG** (in Cantonese): *Madam President, I would like to follow up part (c) of the main reply on how the nuisance problem is addressed. I believe the President also knows that many single-block private buildings have not yet established owners' corporations or mutual aid committees, and that the relevant legislation is usually directed against the problem of one-woman brothels operating in a single flat, instead of a partitioned room in a flat. May I ask the Secretary whether she will consider expanding the scope of the relevant legislation to include one-woman brothels operating in partitioned rooms, in addition to single-flat one-woman brothels, to the effect that persons engaged in prostitution can be prosecuted? Moreover, when the Security Bureau discovers that certain flats are used for vice purposes, will the Bureau request the Buildings Department (BD) to conduct on-site inspections on the flats concerned, and to issue removal order if they are proved to have violated the Buildings Ordinance?*

**SECRETARY FOR SECURITY** (in Cantonese): *Madam President, according to the definition stipulated in the Crimes Ordinance, a vice establishment refers to any premises use wholly or mainly for prostitution involving two or more persons, or any premises used wholly or mainly for organizing or arranging prostitution activities. I believe Mr Frederick FUNG is very familiar with the content of the relevant Ordinance. The concept behind the Ordinance aims at prohibiting minors from engaging in prostitution or being compelled to engage in prostitution, to combat organized prostitution activities, and to prevent prostitution activities from causing nuisances to the community. If the provision or acceptance of service is between two adults, or a sex worker and a customer on a private premises with mutual consent, the Government cannot prohibit such activities for it may violate Article 14 of the Hong Kong Bill of Rights Ordinance, that is, no one shall be subject to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation. Therefore, unless two or more persons are involved, it is very difficult for the Government to legislate to include this type of premises as vice establishments. Given that, the only situation the*

Government can initiate prosecution is the use of sublet rooms, or the "split rooms", as called by the police, as vice establishments. A single flat converted into several rooms and sublet for vice activities is no longer a one-woman brothel for organized vice services are provided by several prostitutes under the control of certain people in a single flat. The initiation of prosecution has to depend on the availability of pertinent evidence, that is, whether several related prostitutes are engaging in prostitution in different sublet rooms of the same flat.

Actually, the police have made successful prosecutions before. In 1999, after seeking legal advice, the police succeeded in prosecuting a vice establishment operating in this type of "split rooms" in Mong Kok. The accused was convicted for permitting the use of the premises for prostitution. Therefore, the authorities may initiate prosecution in this type of cases, but it depends on the facts of the case in question. However, if the Government amends the relevant legislation to the effect that premises where mutually consented sexual transaction between two adults is conducted should be regarded as vice establishment, the amendment may be in contravention of the Hong Kong Bill of Rights Ordinance.

**MR FREDERICK FUNG** (in Cantonese): *Madam President, the Secretary has not answered whether a removal order will be issued by the BD when certain flats have been proved being used for prostitution purposes?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, under the Crimes Ordinance, I do not think the BD is empowered in any way to do this. The BD can only do so if the flat concerned is in violation of the Buildings Ordinance or has undergone unlawful alteration. Mr FUNG should know that many old buildings do not have owners' corporations or mutual aid committees. Therefore, I believe, unless those buildings are in violation of the Buildings Ordinance or legislation under the purview of the BD, the BD can hardly impose any prohibition.

**MR FREDERICK FUNG** (in Cantonese): *Madam President, may I repeat my supplementary question, because I think the Secretary has not answered my supplementary question?*



**PRESIDENT** (in Cantonese): Mr FUNG, you may repeat your supplementary question.

**MR FREDERICK FUNG** (in Cantonese): *Madam President, I hereby repeat my supplementary question. When the Government discovers that this type of flats or "split rooms" are used as vice establishments, will the Security Bureau request the BD to inspect those flats and issue removal orders if such flats are proved to have violated the provisions of the Buildings Ordinance?*

**PRESIDENT** (in Cantonese): Secretary for Security, do you have anything to add?

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, I can say some more about this. We cannot request the Director of the BD to exercise his statutory power not as stipulated by the legislation only for the sake of combating prostitution. When the police find that alterations made to certain flats may cause structural problems during their investigations, they can certainly provide the information to the BD. But the Director will exercise his discretion over the actions to be taken.

**MR HENRY WU** (in Cantonese): *Madam President, in part (a) of the main reply, the Secretary said that the Government had discovered that there were about 350 sublet rooms distributing in five districts. However, with reference to the number of complaints stated in part (b) of the main reply, it seems to me that the proportion of such cases is not quite accurate. For example, in Sham Shui Po District and Yau Tsim District where the number of sublet rooms are 230 and 79 respectively, there seems to be no complaints in these districts. May I ask the Secretary whether she knows the reasons for that? Does the Secretary know how such complaints were handled? Will the problems not come up again after the case has been investigated by the police?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, the police find that most of these sublet rooms are under short-term lease. If a complaint against a certain flat has been lodged, the tenants concerned will soon move out.

The information received by the police is provided mainly by the management of the buildings or by the residents, or is discovered by Police Community Relations Officers. But the situation changes frequently. Regarding the statistics provided, say the 79 sublet rooms in Yau Tsim District, it does not mean that there is evidence to show that all the 79 rooms are used for prostitution. As I said in my earlier reply, in the past three years, the actual number of complaints received by the police about nuisances caused by vice activities in sublet rooms in Kowloon City District and Tsuen Wan District were three and 17 respectively.

**MR JAMES TO** (in Cantonese): *Madam President, I would like to follow up the supplementary question raised by Mr Frederick FUNG just now. Of course, I do not hope that the BD has to act against the law. However, in the year 1993-94, the Government set up an inter-departmental team to handle the problem of young girl prostitution at vice karaoke establishments in several districts, such as Yau Tsim District and Mong Kok. The BD was responsible for inspecting the premises for violations and alterations, and so on, and the cases were handled by several departments together. May I ask the Secretary for Security, when the situation is considered to have become very serious, whether the Government should instruct several departments to take actions to enforce the relevant legislation?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, I have to reiterate that, if the police identify in the course of investigation unlawful alterations and vice usage on certain premises, they will provide the information to the Director of Buildings and ask the Director to take action according to the relevant legislation.

**MR MICHAEL MAK** (in Cantonese): *Madam President, on one occasion, when I was driving past Sham Shui Po and Mong Kok near Shanghai Street, I saw a lot of hookers, commonly known as "streetwalkers", touting on the streets. I do not know whether they were engaging in prostitution in single-flat or partitioned-room one-woman brothels. May I ask the Government, in order to combat this type of vice activities, the Security Bureau or the police would make more obvious effort so that ordinary passers-by will not feel like being disturbed?*

**PRESIDENT** (in Cantonese): Mr Michael MAK, your supplementary question is on individual cases and personal experience, which does not bear any relation to the present discussion on sublet rooms of single-block private flats. However, the theme of Mr MAK's supplementary question is in general within the broader scope of this question. Secretary for Security, would you try to answer the supplementary question in this aspect?

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, first of all, hookers are absolutely different from prostitutes working in a one-woman brothel. Prostitutes working in one-woman brothels wait for their customers in their flats, but hookers tout business in the streets.

The Government and the police have taken a lot of measures to combat hookers. First, to target at the source. Since many hookers come from places outside Hong Kong, we must step up our effort in interception. For example, the Immigration Department will send the information of mainland visitors suspected to have engaged in prostitution to the mainland authorities concerned once they are convicted. The mainland authorities will then prohibit such visitors from visiting Hong Kong again within the next two to five years. Second, the police will step up the raids on hookers in the streets. For instance, the police may plan to use agent provocateurs, to prosecute those hookers for abetting others to commit immoral act; or they may track down the "agents" enticing customers for those hookers and prosecute them for controlling hookers for the purpose of prostitution. Basically, most of the hookers come from the Mainland. Therefore, the police will maintain close contact with the Immigration Department and the public security authorities of the Mainland to enhance exchange of intelligence on this type of vice activities. I do not know if Mr MAK has noticed the large-scale anti-vice operation code-named "Fire Lily" launched earlier by the police. In the operation, the police co-ordinated with the mainland authorities to take actions against vice activities in both places and, in pursuance of the Organized and Serious Crimes Ordinance, have frozen a substantial amount of money generated from illegal activities.

**MISS CHOY SO-YUK** (in Cantonese): *Madam President, in part (a) of the main reply, the Secretary mentioned sublet rooms, and she said that she did not know how many of them were used for prostitution.*

**PRESIDENT** (in Cantonese): Miss CHOY, what is your question?

**MISS CHOY SO-YUK** (in Cantonese): *I find it strange that why the list on distribution of sublet rooms does not cover Hong Kong Island. I know that a lot of sublet rooms are found in Eastern District on Hong Kong Island, though they may not necessarily be used for prostitution. But why sublet rooms are found in only a few districts? There should be more districts which have sublet rooms.*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, this information is provided by the police. I also have the same query about this. However, the police said that they really had not received complaints from other districts. Perhaps I can make enquiries with the police again. *(Laughter)*  
(Appendix II)

**MR JAMES TO** (in Cantonese): *Madam President, has the Government conducted any analysis to study whether the overall increase in vice activities in the past few years should be attributed to the relative high operating cost for single-flat one-woman brothels, which induced the partition of more flats into sublet rooms to operate partitioned-room one-woman brothels at lower cost? If this is not the case, that is the change of the operation mode from single-flat one-woman brothels to partitioned-room is merely for cost reduction and has not resulted in any increase in vice activities, then the way and the extent we have expressed our concern about the problem may not be compatible with the problem itself. I hope the Government may provide the relevant assessment to us.*

**PRESIDENT** (in Cantonese): Mr TO, the situation you just mentioned is hypothetical, are you asking the Government to conduct assessment on a hypothetical situation?

**MR JAMES TO** (in Cantonese): *Madam President, my apologies, perhaps I can make myself clear. Mr Frederick FUNG's question is on sublet rooms, the operation of partitioned-room one-woman brothels. I meant to ask the Government to explain the changes in the relevant figures in the past few years.*

*Irrespective of single-flat or partitioned-room one-woman brothels, are there any increase or decrease in the activities committed within a unit? If there has not been any increase, then maybe people engaging in prostitution have just changed their mode of operation to reduce cost.*

**PRESIDENT** (in Cantonese): Secretary for Security, I do not know if you have the information requested by Mr TO. Would you like to reply now or provide a written reply later?

**SECRETARY FOR SECURITY** (in Cantonese): I will provide a written reply later. (Appendix III)

**PRESIDENT** (in Cantonese): We will now proceed to the sixth question, the last oral question.

### **Provision of Post-secondary Places**

6. **MR SZETO WAH** (in Cantonese): *Madam President, in the 2000 policy address, the Chief Executive set the target of letting 60% of Hong Kong's senior secondary school leavers receive tertiary education within 10 years. In this connection, will the Government inform this Council:*

- (a) *of the projected numbers of post-secondary places in University Grants Committee (UGC)-funded and self-financing programmes respectively, their percentage changes in the total number of places as well as students' enrolment in such programmes in each of the 10 years mentioned above; and of the percentage changes in the government funding involved in the same period;*
- (b) *of the names of education providers funded by the Start-up Loan for Post-secondary Education Providers, the amount requested by and granted to the education provider in each loan application, the courses involved, the number of courses broken down by education level, and the estimated and ultimate number of places provided; and*

- (c) *given that, except for the three types of programmes specified by the authorities, other associate degree programmes will run on a self-financing basis, of the results of the authorities' assessment of the impact of the change on students' affordability, the quality of courses, and the competition between universities (including schools of continuing education and institutions offering external programmes) and non-university education providers in the market?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese):  
Madam President,

- (a) The number of local post-secondary places in the 2001-02, 2002-03 and 2003-04 academic years were 31 064, 33 348 and 37 848 respectively. Of these, 55% to 68% were UGC-funded programmes, and about 22% to 32% were self-financing programmes (details at Annex 1).

In the next few years, the UGC will, based on the academic development plans of individual institutions, continue to fund various programmes in accordance with the established triennium funding mechanism. The actual enrolment figures are yet to be decided, but as recommended in the Higher Education Review, we will provide additional Year Two and Three places if resources permit, and will gradually withdraw subvention for some sub-degree and taught postgraduate programmes (the number of affected programmes is set out at Annex 2). As for self-financing programmes, the supply and demand of student places are basically market-driven, as determined by the education providers. We have seen good progress in the development of the post-secondary sector over the past few years. The overall participation rate of the relevant age cohort has increased from around 33% in 2000-01 to 48.5% in 2003-04. Following the trend, we believe the number of post-secondary places will continue to grow steadily in the coming years.

According to information provided by the Office of the Joint University Programmes Admissions System, a total of 34 724 and

35 199 applications for enrolment on UGC-funded programmes were processed in the 2001-02 and 2002-03 academic years respectively. Regarding self-financing programmes, we understand from the institutions concerned that a total of 17 247 and 21 077 applications were received in the 2001-02 and 2002-03 academic years respectively.

Funding provided by the UGC is in the form of a block grant, and the institutions may decide for themselves how to use the grant. Based on the institutions' report on their actual expenditures, public funds amounting to some \$1,450 million and \$8,380 million were spent on sub-degree and degree programmes respectively in the 2001-02 academic year. Figures for the 2002-03 academic year and beyond are not yet available.

Self-financing post-secondary programmes are mainly supported by tuition fees, but the Government has also put in a considerable amount of resources to provide various kinds of financial assistance to students and education providers, including grants and loans (without quota) for students, allocation of land at nominal premium for the construction of campuses, and the provision of interest-free start-up loans and accreditation grants with a total commitment of \$5,030 million. Over the past two academic years, the Government has provided financial assistance totalling about \$2,900 million (details at Annex 3). Looking ahead, as the Government withdraws subvention from publicly-funded sub-degree programmes, we will use most of the savings to enhance the financial assistance for post-secondary students.

- (b) Since the introduction of the Start-up Loan Scheme in 2001, loans of around \$2,300 million have been offered to 11 non-profit-making post-secondary education providers to cover the costs of renting, buying or building college premises, and those of refurbishment and equipment. Details of the loans provided to various institutions are at Annex 4. As the student places supported by these start-up loans will gradually come on stream in the next few years, the ultimate number of places to be provided is not available at the moment.

- (c) With an expanding self-financing post-secondary sector, there is a need to review the funding mode for sub-degree programmes and to free up resources so that more students may benefit from public subsidies in one form or another. At present, the tuition fees of self-financing post-secondary programmes are around \$30,000 to \$50,000, which are comparable to those of publicly-funded programmes. With student financial assistance, I believe that the change in the funding mode for sub-degree programmes will not seriously affect the programmes' affordability. In fact, most of the savings achieved by changing the funding mode for sub-degree programmes will go back to the students in the sub-degree sector, in terms of better financial assistance.

Regarding the quality of study programmes, all courses offered by the universities, be they publicly-funded or self-financing ones, have to go through the institutions' own quality assurance mechanisms. For institutions which do not yet have a self-accrediting status, their sub-degree programmes have to be accredited by the Hong Kong Council for Academic Accreditation before they can become recognized programmes.

Besides, as the review of funding mode aims at rationalizing the operation of the post-secondary education sector and providing a fairer ground for providers of self-financing programmes, we believe it will encourage healthy competition among institutions and improve the cost-effectiveness of the programmes.

#### Annex 1

##### Post-secondary student places at intake level

<i>Post-secondary programmes</i>	<i>Academic year</i>					
	<i>2001-02</i>		<i>2002-03</i>		<i>2003-04</i>	
UGC-funded programmes	20 990	(68%)	20 806	(62%)	20 663	(55%)
Self-financing programmes	6 829	(22%)	9 000	(27%)	12 275	(32%)



<i>Post-secondary programmes</i>	<i>Academic year</i>					
	<i>2001-02</i>		<i>2002-03</i>		<i>2003-04</i>	
Others (including programmes provided by the Vocational Training Council and the Hong Kong Academy for Performing Arts)	3 245	(10%)	3 542	(11%)	4 910	(13%)
Total	31 064	(100%)	33 348	(100%)	37 848	(100%)

## Annex 2

## Numbers of affected sub-degree and taught postgraduate programmes

## (I) Number of affected sub-degree programmes

<i>Institutions</i>	<i>Academic year</i> <sup>(Note)</sup>			
	<i>2004-05</i>	<i>2005-06</i>	<i>2006-07</i>	<i>2007-08</i>
City University of Hong Kong	2	4	7	1
The Hong Kong Polytechnic University	1	1	9	0

## (II) Number of affected taught postgraduate programmes

<i>Institutions</i>	<i>Academic year</i> <sup>(Note)</sup>			
	<i>2004-05</i>	<i>2005-06</i>	<i>2006-07</i>	<i>2007-08</i>
City University of Hong Kong	15	6	4	0
Hong Kong Baptist University	2	4	1	0
The Chinese University of Hong Kong	3	7	0	0
The Hong Kong Polytechnic University	7	2	7	2

<i>Institutions</i>	<i>Academic year (Note)</i>			
	<i>2004-05</i>	<i>2005-06</i>	<i>2006-07</i>	<i>2007-08</i>
The Hong Kong University of Science and Technology	11	4	1	1
The University of Hong Kong	31	5	0	0

(Note): Programmes affected in a particular year means programmes in respect of which subvention will start to be withdrawn from that year onwards. Students admitted before the year will not be affected.

### Annex 3

#### Assistance provided for self-financing post-secondary programmes

<i>Target and Form of Assistance</i>	<i>Academic year</i>		
	<i>2001-02</i>	<i>2002-03</i>	
Students	Grant	\$23,880,000	\$51,200,000
	Low-interest loan	\$34,760,000	\$60,850,000
	Non-means tested loan	\$141,300,000	\$262,700,000
	Travel subsidy	\$7,463,114	\$13,244,685
	Sub-total	\$207,403,114	\$387,994,685
Education providers	Interest-free start-up loan	\$1,023,189,000	\$1,272,065,000
	Accreditation grant	\$8,042,550	\$1,235,000
	Sub-total	\$1,031,231,550	\$1,273,300,000
Total	\$1,238,634,664	\$1,661,294,685	

### Annex 4

#### Details of the Start-up Loan Scheme

<i>Education providers</i>	<i>Amount requested</i>	<i>Amount approved</i>	<i>Estimated number of student places</i>	<i>Number of courses already offered</i>		
				<i>Pre-Associate Degree / Foundation Diploma</i>	<i>Associate Degree / Higher Diploma / Professional Diploma</i>	<i>Degree</i>
The University of Hong Kong	\$576,425,000	\$490,782,000	3 300	1	14	
Hong Kong Baptist University	\$459,200,000	\$445,401,000	3 300	1	7	
The Hong Kong Polytechnic University	\$466,700,000	\$457,414,111	3 000	1	11	
Lingnan University	\$230,097,000	\$216,332,000	1 200	6	17	

<i>Education providers</i>	<i>Amount requested</i>	<i>Amount approved</i>	<i>Estimated number of student places</i>	<i>Number of courses already offered</i>		
				<i>Pre-Associate Degree / Foundation Diploma</i>	<i>Associate Degree / Higher Diploma / Professional Diploma</i>	<i>Degree</i>
The Hong Kong Institute of Education	\$20,000,000	\$15,000,000	500	1	3	
Caritas Bianchi College of Careers	\$203,000,000	\$203,000,000	1 434		3	
The Chinese University of Hong Kong	\$165,330,000	\$135,274,000	900	1	10	
City University of Hong Kong	\$44,756,000	\$44,756,000	1 500		7	
Vocational Training Council	\$266,400,000	\$266,400,000	2 438		3	
College of Info-Tech	\$13,800,500	\$7,148,000	420		2	3
The Hong Kong Learning Community College	\$15,000,000	\$13,747,000	450	1	1	

**MR SZETO WAH** (in Cantonese): *Madam President, according to the Manpower Projection to 2007 released recently, by 2007, the manpower supply of people with an educational attainment at the matriculation level will be short by 62 600 persons, those of associate degree will be short by 6 100, and those of bachelor degree by 82 600. In such circumstances, why does the Government have to cut the funding for the universities so substantially in disregard of the manpower projections, thereby putting the economic future of Hong Kong at risk? Should the Secretary for Education and Manpower or the Financial Secretary be held accountable for this situation?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): *Madam President, I think Members have all read this report. It is true that we are in shortage of people with such educational attainment, that is why we encourage more education providers to offer more programmes to the students. As to the question of reducing funding, we are actually not reducing funding as such, what we are doing is to reduce the subvention to the universities. The funds so saved will be used to assist students to enable them to enrol in programmes offered by the universities and other education providers. Students may choose to enrol in the programmes they like. This is fair competition in the market. The Government is not providing funding to the*

universities only and not assisting other education providers. We hope that by doing so more education providers can be encouraged to offer such programmes.

**MR SZETO WAH** (in Cantonese): *Madam President, what I wish to point out is that the shortage in manpower supply of people with an educational attainment of bachelor degree would be most serious, that is, around 82 600 persons. If the Government still tries to slash university funding, then how can this problem of shortage in manpower supply be solved? The Secretary has not answered this part of my supplementary question.*

**PRESIDENT** (in Cantonese): Secretary, do you have anything to add.

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): No, Madam President.

**MR ALBERT CHAN** (in Cantonese): *Madam President, the Secretary has set out in Annex 1 the number of self-financing programmes and their percentages. The trend is worrisome, for the number of student places and the share in the percentage of funding provided are increasing progressively, and the rate of such increase is quite significant: it rises from 22% in the academic year of 2001-02 to 27% in 2002-03 and finally to 32% in 2003-04. This gives people an impression that with respect to the development of post-secondary education, the Government is inclined more and more to self-financing programmes. As post-secondary education is costly, that would effectively bar people with less financial means from pursuing education and enrolling in the programmes. May I ask the Secretary, first, how this trend should be accounted for; second, how it can be ensured that people with financial difficulties will not be excluded from receiving post-secondary education for financial reasons?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, if Members care to look at the total in Annex 1, they would find that the number is increasing all the time. That signifies the number of programmes offered will rise continuously and that more options will become

available to students. As to the affordability of the students, we have noted this issue. Therefore, what we are doing is not merely withdrawing the subvention to the universities but using the funds thus saved to assist students so that they can have more options. Our approach is to provide subvention to the institutions and they will offer the programmes. We think that students should be given a right to choose what they want.

**MR ALBERT CHAN** (in Cantonese): *Madam President, the Secretary has not yet answered my supplementary question. How will the Secretary ensure that students with financial difficulties will not have to forego their chances of receiving post-secondary education for lack of means?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, the Government currently provides grants, travel allowance and other allowances and students can also benefit from our low-interest loans. They may be granted a loan without having to undergo a household means test.

**MR CHEUNG MAN-KWONG** (in Cantonese): *Madam President, the Government now subsidizes students of sub-degree programmes, but in future, only those enrolled in degree programmes will be subsidized and the subvention given to sub-degree programmes will be zero. According to information from the Government, the annual tuition fees for sub-degree programmes are as much as \$50,000 and that is even more expensive than the tuition fees for degree programmes. May I ask the Secretary if the Government is adopting an obviously unfair subvention policy which divides students into two categories, that is, those who enrol in degree programmes will be subsidized while those who enrol in sub-degree programmes will only get loans but not any other financial assistance. As they are all young people, why does the Government treat them differently and discriminate policy-wise against those young people who enrol in sub-degree programmes?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, it is not that the Government is not subsidizing sub-degree programmes and so it is not true when Mr CHEUNG says that the amount of subsidy given by the Government to such programmes will be zero. We have

made it clear that subvention will continue to be given to three types of programmes: for which the laboratories are expensive; for which there is a social need and which we think have some special features. For university programmes, the Government will continue to provide subvention. However, subvention should not be given to those which in our opinion are market-driven and can be self-financing. Programmes operated by the education providers can likewise be operated by universities, but the costs would be three times as much or more. So in our opinion, that is not fair. As regards the tuition fees, those for university programmes are about \$31,000 and those by the education providers in the market range from \$30,000 to \$50,000. Since not every programme will cost \$50,000, so it will not make too much of a difference.

**MR CHEUNG MAN-KWONG** (in Cantonese): *Madam President, I would like to seek a ruling from you. The Secretary has not answered the crux of my supplementary question. It is: there are two kinds of subvention policies, currently, subvention is given to both the degree programmes and the sub-degree programmes; but in the future, a large part of the sub-degree programmes will receive no subvention and they will be self-financing, but the degree programmes will still get subvention. I asked the Government whether or not this is discriminatory and why the Government discriminates against the large number of students who enrol in sub-degree programmes and refuses to give subvention to their programmes while subvention is given to all the degree programmes. By the latter I mean the universities subsidized by the Government, of course.*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, I think Mr CHEUNG would not suggest that the Government should stop providing subvention to all degree programmes in the interest of fairness.

**MR CHEUNG MAN-KWONG** (in Cantonese): *Madam President, the Secretary has not answered my supplementary question. Of course, I will not suggest that the Government should withdraw all subventions. I was only asking the Secretary why the Government would withdraw subvention for sub-degree programmes. He should not have answered the other way round. I wish to seek a ruling from the President.*

**PRESIDENT** (in Cantonese): Secretary, do you have anything to add?

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, I have nothing to add.

**PRESIDENT** (in Cantonese): We have spent more than 16 minutes on this question. This is the last supplementary question.

**DR YEUNG SUM** (in Cantonese): *Madam President, the Government has changed the mode of subvention for sub-degree programmes. As a result, 13 programmes in the City University of Hong Kong will be affected and 300 teaching staff will be laid off. The Senate of the University has decided to set up a working group to study how these programmes can be operated with the limited resources available. May I ask the Secretary if assistance would be given to the University to construct some campus buildings?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, we will try our best to assist all education providers, including the City University of Hong Kong in its plans to construct more campus buildings. However, the education providers concerned should make the application for assistance in accordance with the relevant rules and regulations.

**PRESIDENT** (in Cantonese): Oral question time ends here.

## WRITTEN ANSWERS TO QUESTIONS

### Highway Construction Plan of Guangdong Province

7. **MR HUI CHEUNG-CHING** (in Chinese): *Madam President, it has been reported that the initial design work of the Yamen to Gongbei section of the Guangdong West Coast Expressway, a project of "The Tenth Five-year Highway Construction Plan of Guangdong Province", is underway expeditiously, and that*

*the construction of this section will commence soon. After completion of the section concerned, it will be quicker and more convenient to travel between the western part of Guangdong Province and Zhuhai, Shenzhen and Hong Kong. Moreover, the report on the preliminary feasibility study of the bridge linking Hong Kong, Macao and Zhuhai has been endorsed by the Central Government. In this connection, will the Government inform this Council:*

- (a) whether it has learnt from the Guangdong Provincial Government about the details of the above highway project and assessed the impact of the highway on Hong Kong in attracting freight and passenger transport from the western part of Guangdong Province; and*
- (b) whether it knows the progress of the study on the construction of the above bridge, including site search, design and environmental impact assessment, and so on?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS**

(in Chinese): Madam President,

- (a) The Government of the Hong Kong Special Administrative Region (SAR) and the Guangdong Provincial Government have an established channel of communication on town planning issues affecting both regions under the Town Planning Panel of the Joint Working Group on Sustainable Development and Environmental Protection. We have obtained through this channel information about the section of the Guangdong West Coastal Expressway linking Yamen and Gongbei. The joint study commissioned by the National Development and Reform Commission (NDRC) and the SAR Government on the cross-boundary link between Hong Kong and Pearl River West will take into account the impact of the Guangdong West Coastal Expressway when assessing the passenger and freight volume on the cross-boundary link.
- (b) The NDRC and the SAR Government have jointly commissioned the NDRC Institute of Comprehensive Transportation (ICT) to conduct a study on the cross-boundary link between Hong Kong and



Pearl River West. The study commenced in January this year. The scope of the study includes the need for the link, passenger and freight volume projection and macro-economic benefits of the link. The ICT will shortly complete its report and submit it to the NDRC and the SAR Government.

### **Work of Government's Overseas Offices Relating to Combating Atypical Pneumonia**

8. **MR AMBROSE LAU** (in Chinese): *Madam President, will the Government inform this Council of the details of:*

- (a) *the work of the Government's overseas offices relating to Hong Kong's efforts in combating atypical pneumonia during its outbreak; and*
- (b) *the post-epidemic follow-up work, including publicity and trade promotion, being and to be undertaken by the above offices?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Chinese): Madam President,

- (a) During the Severe Acute Respiratory Syndrome (SARS) outbreak, the 10 overseas offices of the Government of the Hong Kong Special Administrative Region (SAR) in North America, Europe, Australia, Japan and Singapore have kept the media, business community, the health and other relevant governmental authorities, politicians, think-tanks, opinion formers, community leaders and academia of their host economies closely informed about the latest developments of SARS in Hong Kong through meetings, briefings, press releases, mass mailing exercises, emails, radio and media interviews and day-to-day liaison. Their efforts helped clarify many misunderstandings about the situation in Hong Kong and, in some cases, arrested the imposition or reduced the scope of discriminatory measures imposed by their host governments and by some organizations on the flow of travellers and goods from Hong Kong. The hard work of the overseas offices was instrumental in persuading many overseas trade fair organizers to lift the

restrictions they had imposed on the participation of Hong Kong exhibitors at trade fairs.

The relevant overseas offices also assisted the Home Affairs Bureau to secure a satisfactory solution to the participation of Hong Kong at the Special Olympics in Ireland, the Secretary for Health, Welfare and Food to conduct video conferences with the Secretary of Health and Human Services and the Director of the Centres for Disease Control and Prevention (CDC) of the United States, and the representatives of Hong Kong led by the Secretary for Health, Welfare and Food to attend the World Health Assembly in Geneva as part of the China delegation to discuss SARS related matters.

- (b) Immediately following the lifting of the travel advisory on Hong Kong by the World Health Organization (WHO) and the CDC and the removal of Hong Kong from the WHO list of SARS-affected areas, our overseas offices widely publicized the good news in their host economies, and stepped up liaison efforts to encourage business people and investors to resume travel to Hong Kong.

All of them are now planning or undertaking various activities in their host economies to relaunch Hong Kong as Asia's world city, the best place in Asia to do business and to visit. Activities include luncheon briefings, panel discussions, business seminars, investment talks, roadshows, exhibitions, cultural performances and film festivals. The overseas offices will also leverage on the visits of senior SAR government officials to their host economies in the coming months to promote Hong Kong.

### **Coverage of Mobile Phone Networks**

9. **MR IP KWOK-HIM** (in Chinese): *Madam President, some members of the public have reflected to me that many locations in Yuen Long are still not covered by mobile phone networks, which has caused them much inconvenience. Some have also complained that at some locations where the mobile phone network signals from the Mainland are stronger than those of the local networks, their local mobile phone calls are automatically switched to the mainland networks without their knowledge, resulting in their local phone calls being*

*charged at roaming service rates, which are higher than those for the local service. In this connection, will the Government inform this Council:*

- (a) of a breakdown by districts of the number of complaints about mobile phone networks coverage received last year by the Office of the Telecommunications Authority (OFTA) and the follow-up actions taken in each complaint;*
- (b) given that some mobile phone networks operators are reluctant to invest in facilities to improve the network coverage in remote areas due to commercial considerations, whether it has taken measures to encourage such investment; if it has, of the details of such measures; if not, the reasons for that; and*
- (c) of the details of the regular reviews between the OFTA and the Guangdong and Shenzhen authorities on the faulty roaming of mobile phone signals as well as the timetable for implementing the improvement measures?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Chinese): Madam President:

- (a) In 2002, the OFTA received 15 complaint cases on mobile network coverage, out of which two cases were related to the Yuen Long District. From January to May 2003, the OFTA received nine complaint cases, out of which two cases were related to the Yuen Long District.

Upon receipt of complaints about mobile network coverage, the OFTA will conduct investigations on the mobile network coverage in the relevant area. In addition, it will refer the complaints to the relevant mobile network operators, which will carry out service improvement in accordance with their own business plans.

In respect of mobile network coverage in Yuen Long, the OFTA conducted a survey in 2002 and revealed that the coverage in the urban area of Yuen Long was satisfactory. In some rural areas, mobile network coverage was not satisfactory due to the lack of

suitable locations for the installation of mobile base stations. The difficulties in identifying suitable locations arise from terrain conditions, and objection to the installation by villagers. Despite these, some of the operators plan to install mobile base stations in Tai Tong Tsuen with a view to improving mobile network coverage in Yuen Long. The installation is expected to be completed by end 2003.

- (b) Under the existing regulatory framework for mobile services, investment in mobile network is market driven. Unlike the fixed telecommunications network services, mobile network operators are not subject to the "universal coverage" requirement. It is the commercial decision of individual mobile network operators to improve mobile network coverage and upgrade their networks with the latest mobile technology.

Hong Kong has a highly competitive mobile market with six operators. Over the years, the operators have taken steps to roll out their networks to improve service. As a result, Hong Kong has almost ubiquitous mobile network coverage, which is one of the best in the world. With such keen competition, we believe that operators will continue to roll out their mobile networks in accordance with their own business strategy and market demand. If appropriate, operators can also co-operate and establish shared base stations to reduce costs. The OFTA will continue to assist operators to install base stations to improve mobile network coverage.

- (c) Due to the close proximity between Hong Kong and Shenzhen and the inherent propagation characteristics of radio waves, mobile phone coverage near boundary areas inevitably overlaps, causing handsets to connect to the Mainland's mobile networks erroneously. The OFTA is concerned about the mobile phone signal overspill situation, and has maintained close contact with the Ministry of Information Industry and the relevant authorities of Guangdong and Shenzhen.

From January 2000 to June 2002, the OFTA held eight meetings with the mainland authorities to review the overall signal overspill

situation. During the period, five joint measurements were conducted with the participation of all mobile network operators from Hong Kong and Shenzhen. As a result, the two sides established in June 2002 a comprehensive monitoring system and signal overspill compliance standard with a view to minimizing the impact of signal overspills. According to the arrangement, mobile network operators of either side would, on a monthly basis, take turns to measure the signal overspills by their counterparts in the boundary areas. They would then exchange the measurement results so that the operators concerned could take follow-up action. The measurement results would also be submitted to the respective regulatory authorities for follow-up action. In order to monitor the signal overspill situation more effectively, the OFTA and the Shenzhen regulatory authorities would arrange impromptu measurements and, in accordance with the respective provisions in law or in licence conditions, take appropriate regulatory action against mobile network operators whose signals exceed the compliance standard. Through the abovementioned efforts, the signal overspill situation has improved. In 2001 and 2002, the OFTA received each year four relevant complaints from the general public. In 2003 until end of June, the corresponding figure is one complaint only. Both sides will continue to hold meetings and conduct joint measurements for effective control of the signal overspill situation.

Apart from the above measures, the OFTA recommends mobile phone users to cancel the "automatic network selection" or similar functions in their handsets while they are in the boundary areas, and to manually select the mobile networks to be used. This will ensure that their handsets are always connected to Hong Kong's mobile networks. Users can consult their handset manuals or mobile network operators about such functions.

### **Mental Health Problems Arising from Unemployment**

10. **MR NG LEUNG-SING** (in Chinese): *Madam President, will the Government inform this Council:*

- (a) *whether it has conducted any investigation and survey in respect of members of the public who suffer from mental health problems due to unemployment; if it has, of the investigation results; and the number, age, sex, former occupation and duration of unemployment, and so on, of those persons who committed suicide in the past year due to the above problems; and*
- (b) *of the measures in place to provide mental health counselling for people with such problems and assistance targeted at helping them find employment?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Chinese):  
Madam President,

- (a) The onset of mental health problems is caused by many factors, including epidemiological, socio-cultural, economic and personal factors. Unemployment is only one of the many interacting factors that may predispose/precipitate a person to develop mental health problems.

There is no dedicated investigation on "unemployment as a cause of mental health problems and suicide". However, from 710 internal reports received from front-line workers on suicide deaths in 2002, 39 reports indicated "unemployment/ underemployment" as one of the possible triggering factors for suicide. Twenty-four out of the 39 also indicated "mental health problems" as another possible triggering factor for suicide. However, there was no known causal relationship between the two triggering factors themselves. A breakdown is as follows:

*By employment status (at the time of the incident)*

Unemployed	32
Not unemployed:	7
(a) in employment (including underemployment)	
(b) not seeking active employment (for example, retirees, housewives)	

*By gender*

Male	30
Female	9

*By age*

Below 20	1
20 – 29	12
30 – 39	11
40 – 49	6
50 – 59	6
60 and above	3

*By duration of unemployment*

Less than one month	2
One month to less than three months	7
Three months to less than six months	2
Six months to less than one year	8
One year to less than two years	3
Two years to less than four years	3
More than four years	2
Unknown or inapplicable (for example, in employment)	12

- (b) For individuals with mental health problems, the Hospital Authority (HA) provides pharmaco-therapy, counselling and psychological intervention to patients who seek consultation at its hospitals or clinics. Group and individual training in prevocational skills, job-seeking skills, work habit training, counselling for patients who have returned to work, and so on, are also organized as part of the treatment and rehabilitation programme. In addition, the HA works closely with non-governmental organizations and the Social Welfare Department (SWD) on the referral of patients seeking open or supported employment.

The Department of Health operates an out-patient service to provide counselling to emotionally unstable patients, including patients whose problems have been caused by unemployment, and refers them to specialist clinics or community service providers for follow-up treatment when necessary.

The SWD provides comprehensive welfare services to assist individuals and families, including those who are in distress and facing unemployment, to cope with their problems through provision of counselling and employment assistance. These services are provided through medical social service units stationed in public hospitals and in the 66 Family Service Centres/Integrated Family Service Centres. Together, these form an extensive network in providing counselling and tangible services to help patients/people in financial crisis tackle their personal and family problems. Social workers provide these patients/people with counselling and/or group activities to enhance their stress-coping skills and work out positive ways to help resolve their unemployment problems. Referrals for financial assistance and other support services are made according to their needs. All cases with suicidal inclination or an actual suicide attempt are referred by the social workers to the SWD's clinical psychologists for assessment and treatment.

In November 2001, the SWD commissioned Caritas-Hong Kong to set up a Family Crisis Support Centre to provide services and facilities for individuals and families under extreme stress. Its services include a 24-hour hotline, outreach and prompt intervention service, short-term overnight accommodation, groups and programmes and public education programmes, and so on. Furthermore, a grant of \$10.6 million from the Lotteries Fund has been allocated to The Samaritan Befrienders Hong Kong (SBHK) to operate on a pilot basis, a Suicide Crisis Intervention Centre (SCIC) for three years. The SCIC commenced full operation in September 2002 and provides a round-the-clock outreach service and crisis intervention/intensive counselling to persons in crisis and with suicidal tendencies. Also, with funding of \$5.15 million from the



Hong Kong Jockey Club Charities Trust, the SBHK has set up a Life Education Centre since May 2002.

The Employment Services Division of the Labour Department assists able-bodied job seekers to seek jobs through a range of comprehensive employment counselling and referral services. The Division promotes positive attitude and self-confidence among the unemployed through publications and the digital display system in its 11 job centres. Hotlines on the relevant counselling services provided by the SWD and non-governmental organizations are also listed out to assist the unemployed to obtain professional advice when necessary.

Apart from the employment services open to all job seekers, the Selective Placement Division of the Labour Department provides an employment service for people with a disability including, those with mental health problems. To help job seekers find jobs and sustain employment, placement officers provide them with vocational guidance, job assessment and the latest information about the job market; conduct job matching and refer them to employers for job interviews; and provide them with a follow-up service for at least three months, following placement into employment.

### **Health Care Personnel Contracting SARS**

11. **DR TANG SIU-TONG** (in Chinese): *Madam President, regarding the health care workers who have been infected with the Severe Acute Respiratory Syndrome (SARS) and speciality training in infectious diseases provided in the public health and medical care system, will the Government inform this Council:*

- (a) *as the Faculty of Medicine of The Chinese University of Hong Kong and the World Health Organization jointly conducted an investigation in April this year on the conditions of 26 health care workers who had contracted SARS in order to identify the causes of their infection, whether the authorities plan to invite these*

*organizations to conduct a similar investigation on other health care workers who have also contracted SARS, or to conduct an investigation on its own, so as to find out the causes of their infection; and*

- (b) *of the number of infected health care workers who have been confirmed or are suspected to have contracted SARS in the intensive care units (ICUs) so far; and how many of them have undergone training on working in ICUs?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Chinese):  
Madam President,

- (a) In epidemiological studies of SARS, front-line health care workers are particularly vulnerable to contracting the disease. Since the beginning of the SARS outbreak, the Hospital Authority (HA) has conducted studies on infections among health care workers in collaboration with the University of Hong Kong and The Chinese University of Hong Kong. Experiences learnt from special studies conducted in conjunction with the university academics, reviews of infections by hospital infection control teams together with overseas studies on this subject have contributed to a better understanding of the mode of spread of SARS in hospitals, and facilitated the improvement of clinical control measures to prevent further spread of the disease.
- (b) As at 2 July 2003, the HA has recorded a total of 32 staff members who are believed to have acquired SARS while working in the ICUs. All of them have undergone training on working in ICUs.

**Directorate Officers in Civil Service**

12. **MR TAM YIU-CHUNG** (in Chinese): *Madam President, regarding directorate officers in the Civil Service, will the Government inform this Council:*

- (a) *of the respective figures on the establishment and strength of directorate officers in the administrative, professional and other grades in each of the past three years; how the respective numbers compare to those of the preceding year and their percentages in the establishment and strength of the entire Civil Service of the respective years; and*
- (b) *whether it has formulated measures to reduce the number of directorate officers; if it has, of the details of these measures; if not, the reasons for that?*

**SECRETARY FOR THE CIVIL SERVICE** (in Chinese): Madam President,

- (a) The information required is listed at Annex.
- (b) The Chief Executive announced in his 2003 policy address in January the initiative to reduce the civil service establishment to around 160 000 by 2006-07 as a global target. Directors of Bureaux have been invited to submit manpower plans later this year showing the consolidated road-map of their bureaux and departments under their purview to achieving the target reduction by 2006-07. In reducing the civil service establishment, Directors of Bureaux will decide which posts to be deleted having regard to service needs, staff deployment and their overall manpower plans.

We are mindful that the deletion of posts should not lead to a top-heavy structure in departments. We have therefore reminded Directors of Bureaux to take into account the optimal proportion between different ranks in the department/grade in effecting deletion of posts. However, we do not consider it appropriate to set a uniform reduction target for directorate posts or posts in any grade or rank as such because deletion of posts should be based on their functional needs. Imposing a uniform reduction target for directorate or other posts will unnecessarily undermine the flexibility of Directors of Bureaux in reducing their establishment and may adversely affect the effective delivery of public service.

## Establishment and Strength of directorate officers in the past three years

	<i>As at 31 March 2001</i>		<i>As at 31 March 2002</i>		<i>Change in Establishment No. (%) (Note 2)</i>	<i>Change in Strength No. (%) (Note 2)</i>	<i>As at 31 March 2003</i>		<i>Change in Establishment No. (%) (Note 2)</i>	<i>Change in Strength No. (%) (Note 2)</i>
	<i>Establishment (% of total establishment) (Note 1)</i>	<i>Strength (% of total strength)</i>	<i>Establishment (% of total establishment) (Note 1)</i>	<i>Strength (% of total strength)</i>			<i>Establishment (% of total establishment) (Note 1)</i>	<i>Strength (% of total strength)</i>		
Directorate officers in government bureaux/departments (excluding Independent Commission Against Corruption (ICAC) officers, judicial officers and locally engaged staff in Hong Kong Economic and Trade Offices)										
Administrative Officer Grade at directorate level	275 (0.1%)	257 (0.1%)	278 (0.2%)	262 (0.2%)	3 (1.1%)	5 (1.9%)	277 (0.2%)	256 (0.2%)	-1 (-0.4%)	-6 (-2.3%)
Professional Grades at directorate level (Note 3)	679 (0.4%)	594 (0.3%)	686 (0.4%)	628 (0.4%)	7 (1.0%)	34 (5.7%)	669 (0.4%)	614 (0.4%)	-17 (-2.5%)	-14 (-2.2%)
Other Grades at directorate level	460 (0.2%)	416 (0.2%)	469 (0.3%)	424 (0.2%)	9 (2.0%)	8 (1.9%)	453 (0.3%)	407 (0.2%)	-16 (-3.4%)	-17 (-4.0%)
Sub-total for directorate officers in government bureaux/departments (excluding ICAC officers, judicial officers and locally engaged staff in Hong Kong Economic and Trade Offices)	1 414 (0.8%)	1 267 (0.7%)	1 433 (0.8%)	1 314 (0.8%)	19 (1.3%)	47 (3.7%)	1 399 (0.8%)	1 277 (0.7%)	-34 (-2.4%)	-37 (-2.8%)
ICAC officers and judicial officers at directorate equivalent level (Note 4)	185 (0.1%)	160 (0.1%)	185 (0.1%)	155 (0.1%)	0 (0%)	-5 (-3.1%)	185 (0.1%)	161 (0.1%)	0 (0%)	6 (3.9%)
Total establishment and strength for the Government (including ICAC officers, judicial officers and locally engaged staff in Hong Kong Economic and Trade Offices) (Note 5)	187 376	182 534	181 342	174 550	-6 034 (-3.2%)	-7 984 (-4.4%)	175 759	170 605	-5 583 (-3.1%)	-3 945 (-2.3%)

*Notes:*

- (1) The number includes supernumerary directorate posts created/retained with the approval of Establishment Subcommittee/Finance Committee.
- (2) Change in establishment and strength as compared with the position in the preceding year.
- (3) This includes posts which are mainly filled by officers from grades which require membership of a professional institution or equivalent. Examples are Architect, Surveyor, Engineer, Assessor, Treasury Accountant, Government Counsel, Medical and Health Officer, and so on.
- (4) Strength figures exclude civil servants on secondment to ICAC. Civil servants on secondment to ICAC have been subsumed under bureaux/departments.
- (5) There is no locally engaged directorate officer in Hong Kong Economic and Trade Offices.

### **Provision of Internship Training for Chinese Medicine Students in Local Hospitals**

13. **MS CYD HO** (in Chinese): *Madam President, it has been reported that although bachelor's degree courses in Chinese medicine are being offered by three local universities, no internship training opportunities in the hospitals of the Hospital Authority (HA) are provided to Chinese medicine students. As a result, students studying Chinese medicine at these universities have to go to Chinese medical institutes in the Mainland for internship training. In this connection, will the Government inform this Council whether:*

- (a) *it plans to provide internship training for Chinese medicine students in the HA hospitals; if so, of the implementation time; if not, of the impact of the non-provision of such training in Hong Kong on the development of local Chinese medicine;*
- (b) *it pays any emolument to students undergoing internship training in the mainland Chinese medical institutes; if so, of the amount and how this amount compares to that payable to medical school students on internship training in local hospitals; if not, the reasons for that; and*
- (c) *it has included care in Chinese medicine in the existing health care training courses to cater for the need in the current development of Chinese medicine; if it has, of the details; if not, the reasons for that?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Chinese):  
Madam President,

- (a) The Government is committed to promoting the development of Chinese medicine in Hong Kong. Apart from establishing the

statutory framework to regulate the practice, use, trading and manufacture of Chinese medicine, we have undertaken to introduce Chinese medicine into the public health care system. As a first step, we shall set up three Chinese medicine out-patient clinics in selected public hospitals in 2003-04. These clinics will provide some training opportunities for Chinese medicine students.

- (b) Students pursuing undergraduate degree courses in Chinese medicine offered by local universities attend practical training in local and/or mainland Chinese medicine institutes which is an integrated component of the respective courses. The Government is not providing any emolument to students undergoing practical training in Chinese medicine. Students undergoing such training are not qualified or registered to practise Chinese medicine. They should be distinguished from Western medicine interns working at hospitals who have already completed the required education and training and are registered in the provisional register. The latter perform clinical duties in hospitals for a period of 12 months under supervision, which is a prerequisite for full registration.
  
- (c) Local universities offering health care training courses have included Chinese medicine in the curriculum of these courses. The nursing degree course of The Chinese University of Hong Kong includes a module on introduction to Chinese medicine. The bachelor and higher diploma courses in nursing of The Hong Kong Polytechnic University include two compulsory modules on concepts of Chinese medicine and Chinese medicine care and treatment. The bachelor of nursing course run by the University of Hong Kong includes a course on introduction to Chinese medicine and alternative therapies in its fourth year of study. In addition, the HA has incorporated into the curriculum of its higher diploma in nursing a module on the basic concepts of Chinese medicine in nursing since September 2002.

## **Expert Group to Review the Operation of the Securities and Futures Market Regulatory Structure**

14. **MR HENRY WU** (in Chinese): *Madam President, following the submission of its report in March this year, the Expert Group to Review the Operation of the Securities and Futures Market Regulatory Structure (the Expert Group) appointed by the Financial Secretary in October last year was disbanded. In this connection, will the Government inform this Council of:*

- (a) *the total number of meetings held by the Expert Group and details of each meeting, including the date of meeting, starting and ending time, attendance list and items discussed, and whether the minutes of the meetings will be made public; if not, the reasons for that;*
- (b) *the details of each of the meetings (including informal ones) between the Expert Group and Financial Secretary or other government officials, including the date, starting and ending time, attendance list and items discussed, and whether the records of such meetings will be made public; if not, the reasons for that; and*
- (c) *the details of the direct and indirect expenditure involving the Expert Group, including the public expenditure on air tickets, food and accommodation, the indirect costs calculated on the basis of man-hours and remuneration of each supporting staff who worked for the Expert Group, and the additional rental and sundry expenses?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Chinese): Madam President,

- (a) The Expert Group stated in its report that the Expert Group had arranged to hold working meetings in Hong Kong at least once every month from October 2002 to March 2003. Between the meetings, members were supported by a full-time secretariat and communicated extensively through e-mail and telephone conferencing. In total the Expert Group had six rounds of working meetings in Hong Kong each lasting between two to six days. In

addition, the Expert Group had meetings with 33 interested groups and individuals, and a further 65 individual interviews to gather information and views.

The Expert Group has made it clear in the report that its observations and conclusions represented a distillation of the views expressed and that it had not attributed specific opinions or proposals except in cases where the respondent has approved its doing so. As such, we consider that it would not be appropriate to disclose the meeting records of the Expert Group.

- (b) The Administration has made a submission to the Expert Group, a copy of which has been supplied to the Panel on Financial Affairs of the Legislative Council at the latter's request in June. The Expert Group also met with the Financial Secretary and the Secretary for Financial Services and the Treasury in exploring the submission further and has kept the Financial Secretary informed of its work progress from time to time. These meetings are just routine updating of the work undertaken by the Expert Group to keep the Financial Secretary in view of the progress.
- (c) The total expenditure incurred for conducting the review by the Expert Group is about \$3.15 million, including honorarium, air tickets, food and accommodation for the Chairman and Members of the Expert Group, the operating cost of the supporting secretariat and other administration expenses such as printing costs and sundry expenses. No rental expenditure was incurred as the secretariat of the Expert Group was provided with government accommodation.

### **Labour Registration Information System for Staff of Building Services Contractors**

15. **MR LEUNG FU-WAH** (in Chinese): *Madam President, it has been reported that the Housing Department (HD) has set up a Labour Registration Information System (the System) for the staff of its building services contractors to monitor their service quality. In this connection, will the Government inform this Council of:*



- (a) *the details of the operation method of the above System;*
- (b) *the types of trades covered by the System; and*
- (c) *the number of warning letters issued and workers' permits of the contractors' staff permanently recalled by the authorities since the System was set up?*

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Chinese):

Madam President, my reply to the three-part question is as follows:

- (a) The System was introduced in 2001 to enable the HD to systematically monitor the performance of maintenance workers in public housing estates. The aim is to uplift estate maintenance service in areas of workmanship, service attitude and sense of commitment.

Under the System, the HD requires its maintenance contractors to issue work permits to their workers and provide workers' personal data for input into the System. Only workers registered in the System and wearing work permits are allowed to carry out maintenance works in public housing estates. If the performance or service attitude of a maintenance worker is unsatisfactory, the HD will request the contractor concerned to issue a warning to him. The warning will be recorded in the System.

A maintenance worker who has been warned thrice within two years will be suspended for three months, while six warnings will lead to a six-month suspension. A worker who has been warned nine times within two years will have his work permit cancelled so that he will be prohibited from undertaking maintenance duties in public housing estates. Each warning is valid for two years and will be removed from record upon expiry.

- (b) The System covers all items of building maintenance works and some building services items, including electrical work, air-conditioning, fire services, water pumps, lifts and escalators.
- (c) Since implementation of the System, maintenance contractors have, on the HD's request, issued a total of 19 warnings. Up to now, there is no suspension or cancellation of work permit.

### **Medical Supplies Donated by Central People's Government**

16. **MR MICHAEL MAK** (in Chinese): *Madam President, regarding the medical supplies donated by the Central People's Government to the Government of the Hong Kong Special Administrative Region (SAR) to help Hong Kong fight Severe Acute Respiratory Syndrome (SARS), will the Government inform this Council of:*

- (a) *the details of the relevant discussions held between the Administration and the mainland authorities before the delivery of the medical supplies;*
- (b) *the categorized quantities and the details of the allocation of these supplies, as well as their respective daily consumption; and*
- (c) *whether there are any surplus stocks; if so, how they will be disposed of?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Chinese):  
Madam President,

- (a) In response to an offer of support from the Central People's Government, the Chief Executive wrote to the State Council on 25 April 2003, indicating that the SAR might need the Central

People's Government's assistance in the supply of drugs, personal protective equipment (PPE) and medical personnel if the number of SARS cases in the SAR continued to rise. The Chief Executive also provided the Central People's Government with a tentative list of the types and quantities of PPE that might be required by the SAR, together with the specifications. On 29 April, the Central People's Government announced that they would give full support to the SAR on the supply of PPE and medical personnel. This was followed up with the Hospital Authority (HA) and the relevant mainland authorities on the detailed user requirements, including providing samples of the required PPE to the mainland authorities for reference. The PPE supplies donated by the Central People's Government were delivered to the HA between 8 and 29 May 2003 in three batches. Throughout the month of May 2003, close liaison was maintained with the HA and the relevant mainland authorities to ensure that the PPE donated by the Central People's Government could address pressure areas encountered by the HA in PPE supply.

- (b) The types and quantities of PPE supplied by the Central People's Government are listed below:

<i>Type of PPE</i>	<i>Quantity (pieces)</i>
Barrier Man	113 000
Shoe Cover	100 000
Water Repellent/Water Resistant Disposable Isolation Gown	600 000
Surgical Mask	800 000
Face Shield	20 000
Eye Shield	
- Frame	30 000
- Lens	100 000
Goggles	10 000
N95 Mask (Small size)	36 000
N95 Mask (Regular)	164 000

The HA Head Office (HAHO) determined the allocation of the PPE donated by the Central People's Government at the hospital cluster level having regard to the stock position of individual hospital clusters. On receipt of the PPE supplies, the clusters distributed them to their hospitals to meet operational requirements. The HA also provided 20 000 pieces of Barrier Man to the Electrical and Mechanical Services Department for use by their staff in the installation and maintenance of equipment in public hospitals. Some 14 500 pieces of Barrier Man were provided to the Fire Services Department for use by their staff who need to carry out inspection on the fire services installations in public hospitals as well as ambulancemen responsible for transporting patients to and from public hospitals. Details of the distribution of the PPE supplies are at Annex.

The daily consumption of PPE by the HA is listed below:

<i>Type of PPE</i>	<i>Peak Daily Consumption (pieces)</i>
Barrier Man	27 910
Shoe Cover	15 800
Water Repellent Disposable Isolation Gown	41 297
Water Resistant Disposable Isolation Gown	40 449
Surgical Mask	278 636
Face Shield	15 666
Eye Shield	15 975
Goggles	2 599
N95 Mask (Small size)	13 556
N95 Mask (Regular)	15 568

- (c) All the PPE supplies donated by the Central People's Government have been fully consumed with the exception of Barrier Man. There is at present a surplus stock of 52 775 pieces of Barrier Man which are kept in the HAHO store as contingency stock.

<i>Type of Personal Protective Equipment</i>	<i>Quantity (pieces)</i>	<i>Hospital Cluster</i>							<i>New Territories East</i>	<i>New Territories West</i>	<i>Electrical and Mechanical Services Department</i>	<i>Fire Services Department</i>	<i>Surplus Stock</i>
		<i>Hong Kong East</i>	<i>Hong Kong West</i>	<i>Kowloon East</i>	<i>Kowloon Central</i>	<i>Kowloon West</i>							
Barrier Man	113 000	-	-	-	5 925	5 925	7 950	5 925	20 000	14 500	52 775		
Shoe Cover	100 000	11 000	13 000	9 500	13 500	25 000	16 500	11 500	-	-	-		
Water Repellent/Water Resistant Disposable Isolation Gown	600 000	85 600	85 600	85 600	85 600	85 900	86 000	85 700	-	-	-		
Surgical Mask	800 000	100 000	100 000	100 000	150 000	100 000	150 000	100 000	-	-	-		
Face Shield	20 000	-	-	20 000	-	-	-	-	-	-	-		
Eye Shield													
- Frame	30 000	2 500	-	4 000	7 500	7 000	9 000	-	-	-	-		
- Lens	100 000	7 500	-	12 500	30 000	27 500	22 500	-	-	-	-		
Goggles	10 000	200	-	-	1 880	4 818	900	2 202	-	-	-		
N95 Mask (Small size)	36 000	5 040	5 040	5 160	5 160	5 280	5 280	5 040	-	-	-		
N95 Mask (Regular)	164 000	23 200	23 200	23 200	23 200	23 600	24 000	23 600	-	-	-		

Annex

**Property Owners Required to Bear Maintenance Responsibility for Public Facilities Owned by Government**

17. **MR FRED LI** (in Chinese): *Madam President, it is learnt that the land lease of Galaxia at Diamond Hill requires the construction of a public bus terminal, a public toilet and Exit C of the Mass Transit Railway (MTR) Diamond Hill Station by the developer at the ground level of the development project, while the Deed of Mutual Covenant of the project stipulates that the land interest for such facilities is vested in the Government, but other property owners of the development project are required to share the responsibility for maintaining such facilities. In this connection, will the Government inform this Council:*

- (a) *of the Government's policy on matters relating to the terms of land leases which require developers to develop public facilities, and the changes to the policy over the past 10 years;*
- (b) *of the justifications for requiring other property owners of the above project to shoulder the maintenance responsibility for public facilities owned by the Government, and of the occupied residential projects and those that are being constructed in the territory to which similar terms of land leases are applicable; and*
- (c) *as the owners have neither the land title and management right of these public facilities, nor the right to approve the maintenance expenses of the facilities in advance, whether the Government will consider assuming the maintenance responsibility; if not, of the justifications for that?*

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Chinese):  
Madam President, my reply to the three parts of the question is as follows:

- (a) Developers are required to provide public facilities under appropriate circumstances. This is based on the general principle that developers should provide such facilities to serve the population brought about by their private development. For example, provisions of open space is required to meet the need of the

increased population arising from the development. Generally, if the public facilities are intended to serve the wider community needs, the Government will normally reimburse developers for the costs of these facilities, for example, public bus terminus. For the past 10 years, no change has been made to this policy.

- (b) Galaxia (New Kowloon Inland Lot no. 6160) is located at 3 Lung Poon Street, Diamond Hill, Kowloon. It was sold by public auction in February 1993. The public transport terminal (PTT), the public toilet and the MTR Diamond Hill Station Exit C fall within the site boundary of the development. They were constructed by the developers with costs reimbursed by the Government. Ownership of the PTT and the public toilet has been subsequently assigned to the Government; and the MTR station exit to the MTR Corporation subject to the conditions set out in subparagraphs (i) to (iv) below.

Under the lease conditions, the developer (or subsequent owners of the development) of Galaxia is responsible for the maintenance of the following:

- (i) the structure and finishes of all walls, roof slab and columns within the PTT and the public toilet, and the structural slabs and the drainage system under them;
- (ii) all lifts, staircases and escalators linking the PTT and the public toilet with other floors of the buildings erected on the lot;
- (iii) fire service installation equipment for the PTT; and
- (iv) the common facilities serving the PTT and the public toilet.

The aforementioned items are either part or the ancillary components of the overall structure of Galaxia, for example, the structure and finishes of the walls within the PTT; or they have the effect of facilitating accesses to the development, for example, the

lifts, staircases linking the PTT and the buildings erected on the lot. The Government has taken over maintenance responsibilities for other related installations such as all elevated walkways which form a separate structure from the development.

There are six existing residential developments in Hong Kong which contain PTT with similar maintenance responsibilities. Two residential developments which are under construction are in similar circumstances.

- (c) In the case of Galaxia, the Government is responsible for the maintenance costs relating to the operation of the PTT, the public toilet and the associated installations. As for the maintenance costs of the public facilities listed in paragraphs (b)(i) to (b)(iv) above, such requirements should have been made known to the flat purchasers by their solicitors during the property conveyancing process. The flat purchase price should also have reflected, among other market and development conditions, these maintenance requirements. There is no question of the Government taking over the maintenance of the aforesaid items. In this respect, the developer's responsibility has been set out in the land lease executed, as a binding contract, between the developer and the Government.

### **Provision of Banking Services**

18. **MR ALBERT CHAN** (in Chinese): *Madam President, recently, many members of the public have reflected to me that the Hongkong and Shanghai Banking Corporation Limited (HSBC) has closed down many of its branches in various districts in Hong Kong, causing great inconvenience to its customers. In this connection, will the Government inform this Council:*

- (a) *whether it is aware of the number of HSBC branches closed down in various districts over the past five years;*
- (b) *whether the closure of HSBC branches has any impact on the elderly recipients of Comprehensive Social Security Assistance (CSSA) payments;*



- (c) *whether the Government has adopted measures to regulate the number of branches to be closed down by banks; if so, of the details; and*
- (d) *how the Government ensures that the public can enjoy reasonable banking services in all districts?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Chinese): Madam President,

- (a) The Hong Kong Monetary Authority (HKMA) does not comment on individual institutions. However, for the banking industry as a whole, the total number of bank branches fell from 1 511 at end of 1998 to 1 294 at end of June 2003. This to some extent reflects the consolidation of banking services, such as bank mergers, and consolidation of smaller branches into bigger ones that provide more comprehensive banking services.
- (b) We understand that the closure of bank branches may cause inconvenience to the public. As advised by the Secretary for Health, Welfare and Food, CSSA payment is normally credited to a recipient's designated bank account monthly. Recipients may choose any bank convenient to themselves, or change their designated account to another bank when necessary. If the closure of a bank's branch office has caused any inconvenience to an elderly CSSA recipient in receiving his CSSA payment, he may change his designated account to another bank and inform the Social Welfare Department accordingly. If an elderly CSSA recipient has difficulty going to a bank to encash his CSSA payment, he may consider appointing an agent to collect the payment on his behalf.
- (c) It is an entirely commercial decision for banks whether to expand or consolidate their branch network based on their business strategy and cost considerations. The HKMA has no legal powers under the Banking Ordinance to regulate the number of branch closures.

- (d) As said in part (c), the HKMA does not have legal powers under the Banking Ordinance to regulate the number of bank branch closures. Neither does it have powers to require banks to maintain branches in a particular location. We are not aware of any major financial centres that have such regulations. This is a commercial decision for the banks after taking into account customer demand, costs of operation and relative competitive position.

As a regulator, the HKMA strives to foster an open and competitive environment for the banking industry. It is believed that under the free market mechanism, banks will offer suitable service channels and products in response to the demand of their customers.

### **IT Development Blueprints**

19. **MR SIN CHUNG-KAI** (in Chinese): *Madam President, "2001 Digital 21 Strategy: Hong Kong Connecting the World" was launched in May 2001, and the target completion dates of most of the tasks were scheduled by or before the end of this year. It is learnt that other countries and regions have also launched their medium-to-long-term blueprints for the development of information technology (IT), such as the "e-Taiwan Plan" of Taiwan, the "e-Korea Vision 2006" of South Korea and the "Connected Singapore" of Singapore. These plans are scheduled for completion in around 2006 or 2007. In this connection, will the Government inform this Council:*

- (a) *whether it will review the effectiveness of the implementation of the IT strategies; if so, of the timetable of and the criteria for the review;*
- (b) *whether it will launch new medium-to-long-term IT strategies and consult the public and the IT sector when drawing up these strategies; if so, of the details; if not, the reasons for that; and*
- (c) *as other countries and regions are actively implementing their IT strategies and are striving to position themselves as leaders in the strategies concerned, what policies and measures the authorities have to consolidate and enhance Hong Kong's competitiveness in IT,*

*so as to accomplish the long-term vision, set by the Chief Executive in 1997, of Hong Kong becoming "a leader and not a follower in the information world of tomorrow"?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Chinese): Madam President,

- (a) The Government is reviewing the effectiveness of the implementation of the Digital 21 Strategy (the Strategy) launched in May 2001. We will assess and review the progress of implementing the initiatives in the five key result areas under the Strategy and whether the objectives set in the Strategy have been achieved. The review is expected to be completed within this year.
- (b) After reviewing the implementation of the Strategy, we will revise the Strategy with a view to driving the development of IT in Hong Kong. In September 2003, we will consult the Information Infrastructure Advisory Committee, the IT sector as well as relevant bodies on the direction, focus and major initiatives, and so on, of the new Strategy. We will take into account the public views received when formulating the new Strategy, which will be released in early 2004.
- (c) The Government has all along been committed to promoting IT development in Hong Kong. The first "Digital 21" Information Technology Strategy launched in 1998 aimed at enhancing the information infrastructure and services in Hong Kong. The Strategy was revised in 2001 with a view to developing Hong Kong into a leading e-business community and a digital city, building on the foundation Hong Kong had established for the use of IT. We will continue to actively promote IT development in the territory, so as to develop Hong Kong into a leading digital city and enhance Hong Kong's competitiveness through the application of IT. The specific policies and initiatives will be announced in the 2004 Digital 21 Strategy, which will be formulated after the public consultation later this year.

**Mergers and Acquisitions in Franchised Public Transport Sector**

20. **MS EMILY LAU:** *Madam President, the acquisition of the holding company of the Citybus Limited (Citybus) by the major shareholder of the holding company of the New World First Bus Services Limited (First Bus) last month has caused public concern that the move is paving the way for monopolizing the franchised bus services on Hong Kong Island. In this connection, will the executive authorities inform this Council whether:*

- (a) they have assessed if the acquisition has violated the principle of fair competition as set out in the Government's Statement on Competition Policy promulgated in May 1998; if the assessment result is in the negative, of the justifications for that;*
- (b) they will reconsider introducing a comprehensive competition law, or at least, adopting a sector-specific approach, in order to introduce an approval process for mergers and acquisitions in the franchised public transport sector;*
- (c) they will conduct a study to examine the pros and cons of the acquisition in the light of public interests; if so, of the details of such a study; if not, the reasons for that; and*
- (d) they have the legal authority to set up mechanisms similar to those governing the broadcasting and telecommunications industries, for the purpose of curbing anti-competitive behaviour or abuse of dominant positions in the public transport sector; if so, of the details of such authority and mechanisms; if not, the reasons for that?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS:**

Madam President, the acquisition is a commercial transaction between the parties concerned. It only involves a change in the shareholder of the holding company of the Citybus and does not involve any assignment or disposition of the Citybus's franchises. Citybus' services have remained unchanged and we have not received any proposal for revising these services.

The Competition Policy Advisory Group (COMPAG) chaired by the Financial Secretary has considered the change of shareholder of the Citybus's holding company and the competition aspects in respect of bus services. The COMPAG noted that in the absence of specific proposals affecting the franchised services, the Government is not in a position to assess the competition issues involved. The Government will continue to monitor development.

The Government has carefully reviewed the pros and cons for the enactment of a comprehensive competition law for Hong Kong. The conclusion is that a non-interventionist policy, supported by sector-specific measures as necessary, rather than an all embracing competition law best suits the needs and circumstances of Hong Kong.

On public bus services, sector-specific regulatory arrangements are in place for the approval of any takeover or merger proposal for franchised bus services. Section 7 of the Public Bus Services Ordinance (PBSO) stipulates that "a grantee shall not assign or otherwise dispose of its franchise, or any part thereof, without the approval of the Chief Executive in Council".

Up till now, the Administration has not received any proposals relating to the joint venture between the Citybus and the First Bus. If any such proposals are received, we will evaluate the impact on competition and assess the impact on the staff of the companies. We will also need to be satisfied that proper and efficient bus services will be maintained, and the proposed change would benefit the passengers as well as Hong Kong as a whole.

Bus franchises are granted by the Chief Executive in Council in accordance with the PBSO. There are provisions in the PBSO and bus franchises to ensure that franchised bus operation shall provide proper and efficient bus services at all times during the franchised period. Any changes to the level or routing of bus services or bus fare levels would require approval by the relevant authority under the PBSO. In addition, rights to operate franchised bus routes are granted on a non-exclusive basis. Competitors can be introduced in case of need. The Transport Department is closely monitoring the bus services operated by the companies concerned and will take actions as appropriate to ensure the provision of a proper and efficient service to the general travelling public.

**BILLS****First Reading of Bill**

**PRESIDENT** (in Cantonese): Bill: First Reading.

**REVENUE (NO. 3) BILL 2003**

**CLERK** (in Cantonese): Revenue (No. 3) Bill 2003.

*Bill read the First time and ordered to be set down for Second Reading pursuant to Rule 53(3) of the Rules of Procedure.*

**Second Reading of Bill**

**PRESIDENT** (in Cantonese): Bill: Second Reading.

**REVENUE (NO. 3) BILL 2003**

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam President, I move that the Revenue (No. 3) Bill 2003 be read the Second time.

The object of the Bill is to amend the Inland Revenue Ordinance and the Stamp Duty Ordinance to enhance the scope and extent of tax concession for income derived from qualifying debt instruments (QDIs) and the exemption of the fixed charge duty for unit trust funds. The two proposals will help promote the development of the local financial market and are beneficial to elevating our status as an international financial centre.

Currently, a 50% profits tax concession is granted to trading profits and interest income derived from QDIs with original maturity period of not less than five years. We propose to extend this tax concession to QDIs with original maturity period of not less than three years. In addition, in order to further encourage the development of a market of quality long-term debt instruments, the Bill also proposes to enhance the profits tax concession from 50% to 100%

for profits and interest income derived from QDIs with an original maturity of not less than seven years.

QDIs refer to debt instruments which satisfy certain criteria and they are quality debt instruments. The enhancement of tax concessions for QDIs will encourage the supply and trading activities of medium-to-long-term debt instruments and hence facilitate the development of the debt market. A mature and active debt market will help boost the diversified development of the financial services sector and enhance our position as an international financial centre.

The above tax concession is proposed to apply to debt instruments issued on or after 5 March when the Budget was delivered. It is estimated to cost the Government \$17 million in revenue per annum.

The second proposal made in the Bill is to remove the \$5 fixed charge duty for subscriptions to and redemptions of unit trusts in Hong Kong. Currently, the stamping requirement does not apply to overseas unit trust funds and the proposed exemption will enable unit trust funds established in Hong Kong to compete on a fairer basis.

This exemption of the fixed charge duty shall apply to subscriptions to and redemptions of unit trusts set up in Hong Kong after the Bill is enacted. The revenue implication of the exemption will be minimal.

Madam President, I so submit. I hope Members will support this Bill.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Revenue (No. 3) Bill 2003 be read the Second time.

In accordance with the Rules of Procedure, the debate is now adjourned and the Bill referred to the House Committee.

### **Resumption of Second Reading Debate on Bill**

**PRESIDENT** (in Cantonese): We will resume the Second Reading debate on the Telecommunications (Amendment) Bill 2002.

**TELECOMMUNICATIONS (AMENDMENT) BILL 2002****Resumption of debate on Second Reading which was moved on 15 May 2002**

**PRESIDENT** (in Cantonese): Mr SIN Chung-kai, Chairman of the Bills Committee on the above Bill, will now address the Council on the Committee's Report.

**MR SIN CHUNG-KAI** (in Cantonese): Madam President, in my capacity as Chairman of the Bills Committee on Telecommunications (Amendment) Bill 2002 (the Bills Committee), I submit the Committee's Report to this Council.

The Bills Committee held a total of 16 meetings, including three meetings for listening to the views of the industry and other organizations. In the first report submitted to the House Committee, I said that I would propose certain Committee stage amendments to address the concerns expressed by the industry. After thorough consideration and discussions with the industry and the Bills Committee, the Administration has agreed to accept most of my suggestions and proposed the latest Committee stage amendments. A detailed account of the deliberations of the Bills Committee is given in the written report. Today, I will highlight several issues covered in the Report.

The Bills Committee has held in-depth discussions on some controversial provisions of the Telecommunications (Amendment) Bill 2002 (the Bill). These include whether the Telecommunications Authority (TA) should act as the regulator for mergers and acquisitions, the availability of checks and balances on the TA's powers and the arrangement for the authorities to formulate the Guidelines on the Competition Analysis of Mergers and Acquisitions in Telecommunications Markets (M&A Guidelines). Though some members have expressed great reservations about the Bill itself, some other members have opined that the authorities should enact a comprehensive competition law. In general, the Bills Committee has no objection to the latest amendments proposed by the authorities.

The Bills Committee attaches great importance to the M&A Guidelines to be issued by the TA in future for it will list out the specific arrangements the TA will apply in assessing mergers and acquisitions and taking regulatory actions. To address the concern of the Bills Committee and the industry, the



Administration has undertaken to conduct consultation on the draft Guidelines upon the enactment of the Bill, and to report the outcome to the Panel on Information Technology and Broadcasting before issuing the Guidelines. Only after the M&A Guidelines have been made will the authorities implement the substantive provisions in the Bill regulating mergers and acquisitions. Since the commencement notice of the substantive provisions is subsidiary legislation, the Bills Committee agreed that if necessary, Members may consider forming a subcommittee in future to pursue issues in respect of the M&A Guidelines in the course of deliberating the relevant effective date.

The *ex post* regulatory regime included in the Bill is proposed to address the concerns raised by the industry during the consultation period to avoid increasing the burden of regulation on the licensees. However, the Bill also provides another option allowing licensees or acquirers of licensees to apply voluntarily for prior consent from the TA before proceeding with the acquisitions, to ensure the certainty of the merger and acquisition concerned.

On the regulatory power conferred by the Bill on the TA, several major telecommunication operators and some members consider that the Bill has conferred very wide powers on the TA who will assume the functions of the regulator, prosecutor and judge in handling merger and acquisition activities. The industry has proposed that the TA can only be allowed to approve straightforward cases that do not raise regulatory concern, while more complicated cases should be referred to the Telecommunications (Competition Provisions) Appeal Board (Appeal Board). Persons aggrieved by the views, instructions or decisions of the Appeal Board may appeal to the Court of Appeal. The authorities understand that the industry and some members have grave concern about the functions of the TA. However, the authorities stress that the above proposal will cause drastic changes to the existing institutional framework and alter and distort the nature of the Appeal Board fundamentally, reducing it to an investigation committee of first instance with executive functions. The TA will be relegated to a consenting agent.

Regarding the checks and balances on the power of the TA, having critically examined the issue, the authorities agreed to shorten the back-stop date which the TA is empowered to investigate into a completed merger and acquisition from three months to two weeks, and to specify this in the Bill and the M&A Guidelines. To enhance the transparency of the TA's enforcement of merger and acquisition provisions, the authorities would specify in the Bill to

require the TA to disclose his opinions, decisions and directions in an appropriate manner. In addition, the authorities also agreed that persons who may make representation to the TA on mergers and acquisitions should include all carrier licensees and acquirers of the licensees concerned.

The Bills Committee is of the view that the establishment of an effective appeal mechanism is of the utmost importance. The Bills Committee understands that the proposal presented by the eight major telecommunications operators in limiting the scope of persons allowed to lodge an appeal to the Telecommunications (Competition Provisions) Appeal Board to only the transacting parties of the merger and acquisition in question aims at preventing any malicious appeals by competitors. Though the Administration has accepted the relevant proposal, some members have questioned whether all telecommunications operators have agreed to the proposal, and whether the rights of other interested parties or the public are protected.

In this connection, on behalf of the industry, I have informed the Bills Committee that the industry found the proposal generally acceptable. The Bills Committee notes that under the Bill, the TA, before making any decisions related to any mergers and acquisitions, is required to give all carrier licensees and any stakeholders reasonable opportunities to make representations on the mergers and acquisitions concerned, and to consider such representations. Moreover, according to the existing provisions of the Telecommunications Ordinance, the TA is required to base on reasonable grounds, take into account the relevant considerations and consult the relevant parties or the public before making decisions on a certain merger and acquisition.

The industry is gravely concerned that any change in beneficial ownership or voting control of any of the voting shares in a carrier licensee may trigger a review by the TA. The industry opines that the TA should only be empowered to review those mergers and acquisitions that will result in a change in effective control of the carrier licensees. Another controversial provision is on the threshold for a change in control of voting shares. The industry proposes to raise the threshold from the 15% proposed by the authorities to 30% to make it consistent with the other Code, the Code on Takeover and Share Repurchase. Some members also objected to the 15% threshold as a lot of competition-neutral mergers, such as the introduction of strategic partners or investors, will be

included in the scope of regulation, and this will not be conducive to encouraging overseas investments.

After careful consideration of the concern of members and the industry, the Administration has proposed certain amendments to specify three specific thresholds of more than 15 %, more than 30% and more than 50%, to represent the acquisition of "material influence", "effective control" and "majority control" respectively over the carrier licensee. The TA is only empowered to review changes that any mergers and acquisitions would result in the person's beneficial ownership or voting control of any person or its associated persons crossing any of the above thresholds. In order that new entrants and new operators will not be obstructed from entering the telecommunications market, the Bills Committee notes that operators which do not have or concurrently acquire beneficial ownership or voting control of more than 5% of the voting shares of other carrier licensees would not be subject to the regulation of the 15% threshold. Moreover, the authorities have also agreed to remove the provision on the change in director or principal officer from the scope of "a change in the control exercised over a carrier licensee".

The Bills Committee notes that the Administration has agreed to accept the proposal of the industry on public benefit, specifying that when the TA finds that the public benefit resulted from certain merger and acquisition would outweigh any detriment arising from the lessened competition, the TA may stop issuing a direction to require the licensees concerned to take actions to eliminate any anti-competition effect. To ensure that the claimed benefits for consumers and the public arising from the merger and acquisition concerned will be realized, the authorities indicate that the TA may, if necessary, with the consent of the licensees, amend the conditions under the latter's licence with a view to bringing about the claimed public benefit.

Regarding the cost incurred by the TA in processing an application for prior consent, the Bills Committee notes the strong request of the industry for a cap on the cost. Having examined the request, the Administration has capped the cost at \$200,000 per application. The Administration will keep in view the trend of cost and adjust the cap where necessary. The Administration also explains that the Office of the Telecommunications Authority (OFTA), operating as a trading fund, should be enabled to maintain its operation on fees charged for its services on a cost recovery basis.

Most of the Committee stage amendments are proposed by the Administration in response to concerns raised by members and deputations, and have been accepted by the Bills Committee.

Madam President, I so submit.

Next, Madam President, please allow me to speak in my capacity as the representative of the information technology sector.

The Bill is the first of its kind with the purpose of regulating mergers and acquisitions in individual markets, and the telecommunications market has become the first industry subject to formal regulation. The Bill seeks to promote fair and effective competition. On this point, I am very supportive. I would support the formulation of a comprehensive competition law even more strongly to cover markets of various sectors in a wholesale manner. Unfortunately, for years, the Government has insisted on not introducing a general fair competition law, and implemented only sector-specific measures to promote competition.

In fact, if individual industry is used as the regulatory base of a fair competition policy, which industry should then be the "pioneer"? Should it be the telecommunications industry, the fuel supply industry, the electricity supply industry, the transport industry or other markets? In any case, the first industry to be regulated will feel discontented. Take the telecommunications industry as an example, the industry has kept on asking, "Why the telecommunications industry has to be affected first and be regulated first?" Since the gazettal of the Bill, the industry has kept on expressing their request for the shelving of the legislation, suspending the use of individual industries as the regulatory base and formulating a comprehensive competition law for fair competition. This indicates that even large corporations like telecommunications operators consider the formulation of a comprehensive fair competition law a more appropriate direction.

Moreover, the second question is, "Who should be the regulator?" This is another issue of enormous concern to the industry. All along, the industry is of the view that the TA, assuming a multi-functional role of prosecutor, regulator and judge, is vested with excessive powers without adequate checks and balances. This time, the Bill confers the regulatory power on mergers and acquisitions on

the TA, an individual being the decision-making body, has prompted industry worries.

In fact, many telecommunications operators are listed companies or subsidiaries of listed companies. The consideration involved in mergers and acquisitions of the telecommunications industry could be enormous, and the financial market has all along been very sensitive to merger and acquisition transactions. If the lack of checks and balances on the system regulating mergers and acquisitions gives rise to problems or delay in the relevant judgements, not only the parties to the transaction in question will suffer damage, but the entire industry as well as the local financial market will be adversely affected.

Therefore, the industry and I, as well as some members of the Bills Committee consider it more appropriate to confer the regulatory power on mergers and acquisitions on a committee. The greatest merit of adopting the committee system is to prevent the over-concentration of power in the regulatory authority, and to prevent the regulatory authority from making wrong judgements and being affected by external interests.

Unfortunately, the authorities have refused to accept the suggestion on the pretext that the Government would conduct a comprehensive review of the existing regulatory framework. But, actually, the crux of the problem lies in the framework and system of the OFTA.

Now, the Government appoints an individual to handle all the regulatory work of the telecommunications market direct. In dealing with controversial issues, in particular matters related to market competition, this will inevitably give rise to the impression that the regulator is conferred with excessive powers.

Though an appeal mechanism is in place under the existing system, not every operator can easily afford the costs. Besides, the protracted process of appeal and proceedings will affect the operation of the industry.

Referring to the practices of other countries, it has been found that none of them have appointed an individual as the regulatory body to handle mergers and acquisitions. The committee system is adopted by the Commissioner of Competition and Competition Tribunal of Canada, the Department of Justice and the Federal Communications Commission of the United States, the Competition

and Consumer Commission of Australia, the Info-communications Development Authority of Singapore and the Office of Fair Trading of the United Kingdom.

Citing the Federal Communications Commission (FCC) of the United States as an example, adjudication is made collectively by a five-member decision-making group. In case of disputes where consensus cannot be reached, the decision-making group will decide by votes. If the industry is dissatisfied or aggrieved by their decisions, the cases concerned may be settled by way of judicial review. Comparing with our existing practice, the practice of the United States is obviously more open, with greater transparency, credibility, better checks and balances, caters more closely to the needs of the prevailing situation of the market, and makes the entire process more effective. Above all, the industry, in general, has relatively more faith in this mode of practice.

Therefore, I would like to call on the Government to fulfil, as soon as possible, the undertaking made in this year's policy address to review the existing regulatory framework. Today, the arguments over the Bill are over. The industry understands that it is inevitable that regulation on merger and acquisition activities has to be exercised, and that amendments made to the Telecommunications Ordinance in this Bill will become reference for other industries in future when similar regulatory measures have to be imposed.

We expect that upon the implementation of the regulatory mechanism on mergers and acquisitions, the appeal of the local telecommunications market to overseas investments would be affected. Similarly, the business strategy of telecommunications operators in identifying international strategic partners in future will also be affected. In view of this, we have to closely monitor the enforcement of regulation on the market and the reform of the systems of the OFTA.

In a word, it is fairer to adopt a comprehensive fair competition law than to apply sector-specific regulation on individual industries. Moreover, in comparison, a committee system is better than the system empowering the TA as the individual assuming the role of the regulator, as it will be easier to be monitored, has greater credibility and is more likely to gain the trust of the market. From this, it is evident that the Government could have done better. Unfortunately, the Government, perhaps due to the time constraints, has opted for the present approach. Finally, I hope the Government can take this opportunity to conduct an in-depth review on the way forward. Nonetheless,

Madam President, I consider the consensus eventually reached between the Administration and the industry a good thing, and a satisfactory settlement that should be attributed to the leadership of the accountability official Secretary Henry TANG. I would like to praise the Administration for reaching an agreement with telecommunications operators, and I certainly welcome such an agreement.

Thank you, Madam President.

**MR HOWARD YOUNG** (in Cantonese): Madam President, as a result of the liberalization of the local telecommunications market a few years ago, the telecommunications market in Hong Kong has developed vigorously, further reinforcing Hong Kong's position as the regional and international telecommunications centre. Telecommunications charges have since seen continuous downward adjustments, enabling the people to save expenses in this aspect substantially. It can be said that the liberalization has brought about a "three-win" situation for the public, the telecommunications operators and the Government.

In order to make the local telecommunications market better compatible with the principles of fairness and effective competition, the Government has introduced the Telecommunications (Amendment) Bill 2002, hoping to impose effective regulation on merger and acquisition activities in the local telecommunications market. The Bill is of good intention and definitely merits support. However, I have to stress that the Liberal Party does not support the adoption of a broad-brush approach to implement a comprehensive fair competition law, and the issue we are now dealing is only a special case. In the case of the telecommunications industry, we are dealing with the issue of the allocation of a precious resource, radio frequency spectrum, and thus it is necessary for us to introduce provisions to protect in public interest the market from excessive influence.

There is no denying the fact that the Government, during the initial consultation, had not paid sufficient attention to the opinions of telecommunications operators, so they once raised strong objection to the Bill. Fortunately, at a later stage, government officials together with Secretary Henry TANG were able to demonstrate a liberal attitude and adopted a co-operative and conciliatory spirit in negotiations, taking account of the whole situation. In the

end, a consensus with telecommunications operators was reached. They were also able to reach a consensus on the conditions of mergers and acquisitions, as well as the need for the approval of the Telecommunications Authority (TA).

According to the present consensus proposal, new telecommunications operators have to apply for approval from the TA only when acquisition of shares of 30% or above of existing telecommunications operators is involved. Or that, a telecommunications company which already holds 5% to 15% of shares of another telecommunications operator and intends to increase its shareholding by 15% or above has to obtain the approval of the TA. Comparing with the initial broad-brush requirement proposed by the Government that requires application for approval of any acquisition of shares of telecommunications operators at 15% or above, the above requirement is obviously more flexible. The telecommunications industry, though discontented with the absolute power the TA has on merger and acquisition matters, has eventually refrained from insisting on the separation of the approving authority from the TA on merger and acquisition matters. So, the issue has been resolved in a harmonious manner.

Finally, I have to stress that mergers and acquisitions should not always be regarded as negative. More often than not, such activities only indicate that telecommunications operators intend to introduce new operators, or that overseas telecommunications operators intend to enter the local market, which is indeed good for the development of the local telecommunications market. Therefore, the Government, as well as the public, should not be biased against mergers and acquisitions with the preconceived view that such activities would essentially reduce competition in the market. They should not forget that we should look at the issue from the perspectives of economic benefits, cost reduction, lowering of charges and maintaining employment. Otherwise, excessive regulation will only discourage new competitors from entering the telecommunications market, which is neither beneficial to the telecommunications industry nor society as a whole.

Madam President, I support the passage of the Bill.

**MR FRED LI** (in Cantonese): Madam President, on behalf of the Democratic Party, I speak on the Telecommunications (Amendment) Bill 2002 (the Bill).



The Democratic Party supports the Bill because it bears some resemblance to a "fair competition law". It can also be seen as an important achievement of our long-standing fight in urging the Government to implement a fair competition policy.

However, the Democratic Party notes with regrets that the Bill is not a comprehensive fair competition law and thus inadequate in ensuring fair competition in all sectors in the territory; it can only regulate the merger and acquisition transactions in the telecommunications market. In fact, in the entire scrutinizing process, the industry had queried why the Government did not formulate a fair competition law. They even questioned, "why us", asking why it should be directed against the telecommunications industry.

In complete contrast to the position of the Liberal Party, the Democratic Party has all along supported the formulation of a comprehensive fair competition law. We think that the regulatory scope should cover all sectors, for this will bring about positive effects on both the business sector and the consumers.

The local business sector is composed mainly of small and medium enterprises (SMEs) and small shop operators. In the face of competition from large corporations with an abundance supply of financial resources, human resources and expertise, SMEs and small shop operators can only struggle for their sheer survival. We must note that, SMEs and small shop operators are not uncompetitive; they can also provide quality and value for money goods and services to consumers. However, unfortunately, large corporations are able to use such unfair strategies as price manipulation of supplies, supply control and below-cost cut-throat pricing, to offset their competitive edge. Large corporations have been able to reduce the competitiveness of SMEs and small shop operators to naught, substantially undermining competition in the market, giving rise to monopolization.

The Democratic Party opines that the formulation of a fair competition law pinpointing unfair competition practices like price manipulation, collusive price fixing and market carving will not only solve our present difficulties but also attract foreign investments to Hong Kong.

We are disappointed that the Government has only introducing sector-specific measures to promote fair competition in individual industry. Until now,

anti-trust provisions are only included in the Broadcasting Ordinance and the Telecommunications Ordinance. The implementation of a sector-specific competition policy is not necessarily a more comprehensive and fairer approach. Many overseas organizations, including those of Canada, the United States, Australia, Singapore, the United Kingdom, and so on, have had measures in place to monitor the overall fair competition.

We consider the Bill should only be regarded as part of the existing competition policy of the Government. The Democratic Party supports the Bill because of this feature.

But again, we have to call on the Government to expeditiously review the situation and develop new competition policies and formulate a comprehensive fair competition law. It should also redefine the functions of the Competition Policy Advisory Group to empower it to adjudicate on unfair competition practices in the market.

Madam President, I so submit.

**MR CHAN KWOK-KEUNG** (in Cantonese): Madam President, I am speaking in my capacity as the spokesman of the Democratic Alliance for Betterment of Hong Kong (DAB) on information technology affairs. With the liberalization of the telecommunications market and the introduction of competition into it, the Hong Kong telecommunications industry has seen rapid and healthy development, testifying that the regulatory policy adopted at the initial stage of market liberalization has been effective. However, the needs of a market vary at different phases of its development. At this stage, what the telecommunications market needs is a highly transparent framework that allows fair competition. The DAB therefore supports the resumption of the Second Reading of the Telecommunications (Amendment) Bill 2002 (the Bill).

It is very common in the business world that a company dragged into a crisis by its mismanagement is eventually rescued by a white knight. Recently, affected by the Severe Acute Respiratory Syndrome (SARS), many restaurants facing a closedown were finally taken over by large corporations. Similar mergers and acquisitions will undoubtedly reduce competition in the market, but this could save several thousands "wage earners" from becoming unemployed. I have cited this example only to illustrate that, though the market environments

of the telecommunications industry and catering industry are different, any merger and acquisition activities taken place in an industry will, in fact, affect the employees. Therefore, we do not wish to see the Telecommunications Authority (TA) preventing the white knights from rescuing telecommunications operators in crisis on the grounds that mergers and acquisitions in the telecommunications industry will bring about anti-competition effects. Otherwise, the closure of the companies concerned will make their staff jobless. The Government, having taken into account the views of the industry, has agreed to move an amendment to include public benefit as one of the considerations in assessing the effect of mergers and acquisitions on competition. We welcome this decision and believe that this could provide a certain degree of protection to the interest of employees.

Regarding the extent of the threshold of change in shareholdings triggering investigation by the TA, it has been a controversial issue. Actually, mergers and acquisitions of companies are complicated commercial behaviour, the shareholding composition of most local telecommunications operators are also complicated. If a broad-brush approach is adopted in setting the threshold of change in control of licensees, be it 15% or 30%, basically, the actual situation cannot be fully reflected. Regarding the threshold for triggering the TA to conduct review, we consider it more appropriate to set three specific thresholds at 15%, 30% and 50% respectively according to the nature of the mergers and acquisitions in question. We believe, provided that the TA maintains a high degree of transparency in disclosing and explaining the process of investigations and their outcomes, supplemented with sufficient opportunities for making representations and a comprehensive appeal mechanism, the industry worries about the regulation of mergers and acquisitions would be allayed.

Moreover, the Bill stipulates that a set of guidelines on mergers and acquisitions has to be drafted. The guidelines will specify the factors that the TA should consider in assessing the competition effect of the relevant merger and acquisition activities. When the Bill comes into operation in future, the guidelines will be used to a great extent as authoritative reference. We agree that the guidelines should be endowed with flexibility to enable adjustments in accordance with changes in the industry, so that the regulation imposed will not be out of touch with the market situation. On other hand, the drafting of the provisions in the guidelines will directly affect future investments as well as mergers and acquisitions in the telecommunications industry. For this reason exactly, the Government should therefore fully consult the trade and interested

parties to ensure that all the parties fully understand and accept the content draft. Though the draft of the guidelines does not need to be scrutinized by the Legislative Council, the DAB will monitor closely the process of drafting.

In fact, owing to the rapid changes in the telecommunications market, it will be more favourable to the future development of the industry if the sector-specific regulatory framework on mergers and acquisitions can be implemented expeditiously, so as to provide a clearer outline of the investment environment. We hope that the enactment of the Bill will lead the telecommunications market into a new environment of fairer and more effective competition.

Madam President, I so submit.

**DR DAVID CHU** (in Cantonese): Madam President, on behalf of the Hong Kong Progressive Alliance (HKPA), I speak in support of the passage of the Telecommunications (Amendment) Bill 2002 (the Bill) and the Committee stage amendments proposed by the Government. The Bill aims at providing a regulatory framework on merger and acquisition activities in the telecommunications market in order to promote fair and effective competition. All along, the HKPA has supported the Government in improving the service quality and rationalizing the charges of public utilities by means of market forces and mechanism. In fact, the Government's policies on the telecommunications market have really reduced the price of telecommunications services considerably, thus benefiting the consumers. However, at the same time, we think the Government should also provide a good business environment to the industry and reduce its interference with the market, so that operators and investors will not be subject to unnecessary regulation.

The most controversial issue regarding the Bill is the definition of the change in control, which involves the power of Telecommunications Authority (TA) to monitor and interfere in merger and acquisition activities. The industry considers the 15% threshold too low. They worry the coverage of the provisions may be too extensive that many mergers not affecting competition, such as a merger to introduce strategic investors, may also be affected. I welcome that the Government, after discussions with members of the industry, responded to the industry concern by proposing additional Committee stage amendments to regulate the power of the TA.

Actually, during the past few years, the telecommunications industry has to face difficult operating conditions and keen competition; this is obvious to all of us. Against this background, in enacting legislation to regulate business activities, the Government should conduct thorough and detailed consultation among members of the industry to ensure that the relevant regulatory measures could balance the interest of all parties concerned. I think promoting business activities should be one of the policy objectives of the Government so that the industry could have the room and liberty to make flexible adjustments in response to market situations. Regarding the guidelines to be prepared by the authorities on merger and acquisition activities, I think the Government should take on board as far as possible the views of the industry and the public, to provide the most predictable and objective environment for business activities of the industry, so as to minimize the uncertainties.

On the other hand, the employment size of the telecommunications industry in March this year reduced by 22% as compared to last year. I hope the Government, in implementing any policy in the future, can take into account its impact on employment. I so submit.

**MR ABRAHAM SHEK:** Madam President, I object to the passage of this Bill in its Second Reading, on the grounds of government interference in commercial activities.

This Bill is contrary to the spirit of free market economy, and what Mr TUNG preaches about "big market and small government". This Bill, in the name of protection of market competition, aims to increase the power of the Government to control market activities, thereby discouraging future overseas and local investments in the telecommunications industry. This Bill, if passed, and I am sure it would be, will result in similar bills being introduced into other industries. I caution my colleagues, especially those in the Liberal Party, that this Bill represents a new trend of government interference in market activities.

Thank you, Madam President.

**MS EMILY LAU** (in Cantonese): Madam President, I speak in support of the Telecommunications (Amendment) Bill 2002 (the Bill).

Madam President, sometimes, I do share the views of Mr Abraham SHEK, but regrettably not today, for the brief remarks he just made cautioned the Liberal Party to swiftly change their position. Madam President, there are other Members who may oppose the Bill, but I am afraid they will not come into the Chamber to speak. I hope Mr Abraham SHEK and those Members will understand that the Bill is far from adequate indeed. As mentioned by Members of the Democratic Party just now, many Hong Kong people hope for a comprehensive fair competition law. The Consumer Council has been advocating this for quite a long time, but the authorities have been overbearingly resisting this. However, this time, we must praise Secretary Henry TANG for he has raised a good point.

Madam President, I think you also notice the opposition from the industry. They oppose the Bill for many reasons, but one of which, as mentioned by Mr Fred LI, is why the telecommunications industry but not other industries. I think it is tough luck that they have been chosen, but the authorities have also explained the need to enact legislation on this. Therefore, I am not going to repeat the arguments mentioned by Mr SIN Chung-kai earlier. This time around, I have supported the views of the Government right from the start. Therefore, Madam President, I should not always be regarded as opposing the Government's proposals. At several stages of the entire process, I have been almost the only Member who supported the Government, and I am not going to change my stance.

The Bills Committee finally completed the scrutiny of the Bill, and the industry, some members of which sitting at the public gallery now, has all along shown great concern about this. I am grateful to the industry for throughout the entire scrutiny process, they have attended almost every meeting. Of course, when the interest of the industry is at stake, attention from the industry is certainly desirable. However, sometimes — Madam President, I am not saying the government officials are lazy — officials in charge of other Bills have not consulted the industry or only consulted them lately, thus failing to raise the efficiency of their work. Regarding the scrutiny of this Bill, the industry participated every time and gave their opinions to us. In the end, when the Bills Committee had finished scrutinizing the Bill, and even prepared the report, the industry came to us again. Why? Because they were divided at the outset (Madam President, we should draw a lesson from this story, for if we people of Hong Kong are divided, others may benefit out of it). The outcome is of course far from satisfactory, and the industry has to resort to compromises among themselves.

Madam President, I eventually accepted readily the advice, though I did have some opinions about this during the process. However, I thought since the report of the Bills Committee had already been completed, there was no point to re-open the scrutiny procedures again. But, eventually, the Bill had to go through another scrutiny again. I think Secretary Henry TANG was not being responsive to advice, he was just bowing to the votes — I got it wrong, not the votes — but rather the pressure from the votes of Members, for most Members, including the Liberal Party, supported renewed scrutiny. Madam President, I also supported it. As I thought when regulation of a specific industry is met with strong industry views, particularly when most members of the industry had come forward indicating their strong views, we had to listen. We should not refer to this as a collusion between the business sector and the Government.

However, Madam President, perhaps, you may also recall that minor members of the trade, such as Sunday, did express support for the Bill at the outset. We can thus see who considered the regulation necessary and who considered their interest being injured. Anyway, all parties eventually managed to reach an agreement and arrived at the present compromise. However, I do not agree with Mr Abraham SHEK that this is government interference. In fact, I am the one who is most concerned about government interference. Madam President, today, Mr Abraham SHEK and I seem to have exchanged positions. He referred to the Bill as government interference and presaged that it would deter the relevant industry from investing in Hong Kong. Madam President, we did raise this issue several times during the discussions of the Bills Committee and some members also sounded such a warning. Today, Mr SHEK again raised this issue, I hope Secretary Henry TANG will respond to this point later.

If the Bill does give rise to this effect — I believe the Bills Committee and the Legislative Council as a whole will pass the Bill later, and Mr SHEK is right in saying that even if he voted against the Bill, the Bill would still be passed — we have done a very bad disservice to Hong Kong. However, the effects of the Bill cannot be concealed for a long time. I hope, and I believe, that we have struck the right balance. I hope Secretary Henry TANG will give a message to the industry, including existing members of the industry and investors likely to be attracted to the telecommunications industry in Hong Kong, explaining the business friendly environment Hong Kong provided to investments. He should clarify that what Mr SHEK said is not the case, there is no question of the TA being given excessive powers and abusing them, bringing uncertainties and numerous constraints to the business environment thus lessening its attractiveness.

He should do so because at that time the industry, in particular Telstra, did express worries about this to the Bills Committee. We do not like to see that with the passage of the Bill, the industry worries will realize. By that time, Mr SHEK will say, "Ha, ha, ha, on 9 July, I already told you all that was going to happen, just that you did not believe me." I think if this really happens, it will mean "a great deal".

Therefore, at that time, I enquired the Consumer Council of the views expressed by the industry on the powers of the TA, and the Consumer Council considered the powers conferred on the TA now appropriate. However, I certainly hope the TA will heed the worries of the industry and strike the proper balance in executing his power.

Of course, I do support Mr Fred LI on the introduction of a comprehensive fair competition law. Madam President, I understand that this is beyond the policy remit of Secretary Henry TANG, but I still like to say something about this for I consider this very important. The industry is still unable to come to terms with the fact that they have been chosen. I agree that the industry has a reason to be angry, but after all, the Bill still has to be passed for one or two other industries have also experienced the same situation. I believe Secretary Henry TANG knows that, regarding the existing practice in Hong Kong, that is, the implementation of sector-specific regulation instead of the formulation of a comprehensive fair competition law, the World Trade Organization already expressed concern last year.

Madam President, more often than not when the authorities mentioned this issue, they would say, "Ha, ha, you know, Singapore, our competitor, does not have one, that is why we also do not have it." Madam President, now Singapore is going to have a comprehensive fair competition law for its Government has already announced the enactment of such a law in two to three years. I wonder what excuse the Government can use in future, for even the case in Singapore can no longer be quoted. I believe among other developed economies, Hong Kong is perhaps the only one that has not enacted a comprehensive fair competition law. Therefore, I hope a review can be conducted on this.

Some Members just said that the telecommunications industry seemed to be the first industry identified for the implementation of regulation on merger and acquisition activities in the business sector. Madam President, today, I



have asked a written question, Question 20, on the acquisition of the holding company of the Citybus Limited by the major shareholder of the holding company of the NewWorld First Bus Services Limited. My question is on the public worries caused by the acquisition on the monopolization of franchised bus services of the Hong Kong Island in future. Let us see how the Government replied. According to the Secretary, Dr Sarah LIAO, in respect of public bus services, the authorities have already established regulatory arrangements for scrutinizing acquisition and merger proposals of bus franchise. This indicates that regulation has already been imposed on bus services, thus, telecommunications operators should not think that the Government pinpoints them as the first industry to be subject to regulation. Why? Because Dr Sarah LIAO said in the reply that section 7 of the Public Bus Services Ordinance (PBSO) stipulates that "a grantee shall not assign or otherwise dispose of its franchise, or any part thereof, without the approval of the Chief Executive in Council". I hope this may set the mind of the public at ease for some of them have been worrying that bus services may be cut after the acquisition. The point I want to illustrate is that it is not a desirable approach for the Government to handle similar issues haphazardly.

We in the Frontier believe that if we have to enhance the business environment of Hong Kong to revive our economy, the formulation of a fair competition law will serve this purpose. Madam President, I believe the Frontier and Secretary Henry TANG and the Liberal Party have some fundamental differences, but I hope that we can think about it again. At present, the numerous measures introduced, that is, the proposals made by the Chief Executive to spend billions of dollars here and there, may not necessarily help revive the economy. Those proposals may help to keep certain groups of people out of unemployment for a couple or more months. However, if we really want to improve the economic environment of Hong Kong, we have to formulate a fair competition law. We have to let all investors know that Hong Kong market, particularly some lucrative industries, will not be monopolized by a few prominent magnates or occupied by several families. Only this will attract other local and overseas investors to invest in Hong Kong.

Though I support the Bill, I still hope that the authorities will consider the introduction of a fair competition law in future. I hope that Mr Abraham SHEK's prophecy will not come true. On behalf of the Frontier, I would like to call the business sector and the international business community into attention

that we hope the Bill will strike a right balance. We do not wish, nor do we have any intention, to deter businesses from investing in Hong Kong for that will be detrimental to Hong Kong. We hope Secretary Henry TANG will explain this clearly. Otherwise, the business sector will continue to harbour misgivings about the Bill and "bad-mouth" Hong Kong overseas, which I believe is not beneficial to our local business environment.

With these remarks, I support the resumption of the Second Reading of the Bill.

**PRESIDENT** (in Cantonese): Does any other Member wish to speak?

(No Member indicated a wish to speak)

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): Madam President, the Telecommunications (Amendment) Bill 2002 seeks to provide a clear and comprehensive regulatory framework on merger and acquisition activities in the telecommunications market. I am grateful to Mr SIN Chung-kai, Chairman of the Bills Committee on Telecommunications (Amendment) Bill 2002 and members of the Bills Committee for the many valuable suggestions they have made. Since July 2002, the Bills Committee has deliberated on the contents of the Bill, and has on three occasions heard the views presented by the industry and the public. After taking reference of views from all quarters, we will propose a number of amendments. These amendments have incorporated many opinions from the industry and will provide a clear and comprehensive regulatory framework which will improve the business environment of the telecommunications market and protect the interests of consumers. We think that a very good balance has been struck and there is no such thing as succumbing to the pressure of votes as mentioned by Ms Emily LAU, for we have taken into account the need to strike a balance between consumers, operators and attracting investments. Therefore, we have gained the support of the Bills Committee to resume the Second Reading of this Bill.

At the Committee stage later, I will introduce the amendments to Members and now I would like to respond to some points of concern expressed by the Bills Committee *seriatim*.

First, some Members and industry participants are of the view that the Bill should not have been introduced in the first place. They think that in the absence of a comprehensive fair competition law, the telecommunications industry should not be singled out for regulation, and that operators in the industry are already operating in very difficult conditions and so it is not the right time to introduce regulation and so on. I do not agree to these views.

Our economy has always been free and open and so for the SAR Government, a policy on competition will promote economic efficiency and free trade for the benefit of consumers. At the present stage, we do not intend to enact a comprehensive competition law and we are of the view that sector-specific measures should be taken to promote competition and this is an approach which is in line with the needs and conditions of economic development in Hong Kong.

Under this policy of sector-specific measures to protect the level of competition, a set of provisions aiming at protecting competition in the telecommunications industry has been in force since 2000. These provisions are widely recognized by both the industry and the public as capable of effectively protecting fair competition among operators and consumer interest. Overseas experience also shows that apart from prohibiting anti-competitive conduct, there should be laws regulating mergers and acquisitions to prevent over-concentration of market power in a few operators or the emergence of a market structure which is unfavourable to competition. With respect to the carrier licence market which may hinder the introduction of competition due to the high market concentration or the high barriers to entry due to high sunk costs or scarcity of radio spectrum, it is particularly important that mergers and acquisitions be subject to proper regulation. Therefore, the Bill should be expediently enacted to protect competition, the level of competition in the market, and consumer interest. It will also enable consumers to enjoy advanced telecommunications services at affordable prices. We should also offer a level playing field to attract more foreign and local investments.

The Bill as amended by the proposed amendments will provide a clear and lenient regulatory framework. We will adopt an *ex post* regime, that is, regulatory review should be conducted after the merger and acquisition is completed to avoid placing any undue burden on the industry. Also we have also set up a channel of both a formal and informal nature for carrier licensees to

seek the consent and advice of the Telecommunications Authority (TA) on a voluntary basis before they proceed with the proposed merger and acquisition activity. We have also set up an effective appeal mechanism to enable licensees and parties intending to make acquisitions to lodge appeals with the Telecommunications (Competition Provisions) Appeal Board which is vested with extensive powers. The enforcement of the opinions, decisions and directions made by the TA will be put on stay on receipt of an appeal by the Appeal Board. We trust that the Bill will provide a clear regulatory regime to both the industry and the investors to assist them in making an informed decision regarding mergers and acquisitions and to attract investors. The Bill will thus be conducive to thriving development of the telecommunications market.

Another issue of concern expressed by the Bills Committee is whether the power of making a review is over-concentrated in the TA. As explained by the Government in the Bills Committee meeting, the existing framework prescribed in the Telecommunications Ordinance empowers the TA to enforce the related provisions, including the provisions on anti-competitive practices. The existing framework has enough checks and balances to balance and even scrutinize the powers of the TA. The relevant measures are as follows:

- (1) First, many of the actions by the TA are subject to the regulation of administrative guidelines. The TA should comply with legal provisions and where appropriate, consult the industry and the affected parties on the administrative guidelines;
- (2) After a decision is made by the TA, the decision so reached will be made public together with the information used and the factors considered, thus the decisions made by the TA are highly transparent;
- (3) The Telecommunications Ordinance provides that the independent Appeal Board may scrutinize the decisions made by the TA with respect to competition matters. The Appeal Board is chaired by a person who is eligible for appointment as a High Court judge and it has extensive powers to alter, quash and uphold decisions made by the TA. Apart from the above channel of appeal, persons aggrieved by any actions or decisions made by the TA may apply to the Court a judicial review.

The proposal made in the Bill to vest the TA with power to review mergers and acquisitions is based on the existing framework in the Telecommunications Ordinance. The checks and balances mentioned earlier are also applicable to mergers and acquisition activities. Therefore, we consider that the proposals made in the Bill are appropriate.

As for the question of the threshold triggering regulation as proposed in the Bill, we have accepted the views expressed by members and the industry and proposed several amendments. The objective is to provide a clear regulatory regime to the industry and investors without affecting the regulation of competition and merger and acquisition activities.

Under the Bill as eventually amended, only when the three specified thresholds are crossed will the TA review and determine whether the change concerned is likely or will probably reduce competition in the telecommunications market by a significant degree. The relevant thresholds are: when any person or an associated person becomes the beneficial owner of more than 15%, 30% or 50% of the voting shares in the licensee, or the voting control or control of the licensee. Having taken on board the views of the industry, we will specify further in the amendments that for new entrants to the market, the lowest threshold is 30% instead of 15%.

At the same time, an amendment is also made to introduce the concept of "an associated person" into the Telecommunications Ordinance and this should plug the loophole of associated persons and companies bypassing the thresholds concerned. The provision is thus improved to achieve the effect of efficient regulation. As compared to the original proposal that the TA may review any proposed change in share ownership, the amended proposal can serve the policy objective and greatly enhance the clarity of the Bill, thus boosting the confidence of the industry and investors.

Members and the industry have also expressed concern about the contents of the guidelines to be issued by the TA pursuant to the Bill. I would like to point out the following points:

- (1) Important provisions on the regulation of mergers and acquisitions in the telecommunications industry, including factors to be

considered in reviewing whether the merger or acquisition in question will significantly reduce competition in the market, have been proposed in the Bill and in the Committee stage amendments. The TA is obliged to follow these provisions when formulating the guidelines;

- (2) As I have mentioned earlier, the TA has statutory obligation to engage in reasonable consultation with the affected parties before guidelines are issued. Therefore, after the Bill is enacted, the TA will formulate draft guidelines and conduct extensive and highly transparent public consultation. He will take into full consideration the views collected before implementing the guidelines; and
- (3) The substantive provisions of the Bill will come into force after the guidelines are implemented. In other words, only when ample consultations have been made and the guidelines finalized that the substantive provisions of the Bill shall come into operation on a date to be appointed by notice in the Gazette. The notice is subsidiary legislation and shall be scrutinized by the Legislative Council.

Lastly, I would like to respond to the issues on review of mergers and acquisitions by the TA and the time limit for the Appeal Board to handle appeals. We appreciate the relevant concerns and that merger and acquisition activities are highly sensitive commercial activities. Therefore, the Government will ensure that the review and appeal procedures are completed as soon as practicable in order to provide the greatest degree of certainty to the merger and acquisition activities. The TA will set out in his draft guidelines the time limit for his review of merger and acquisition activities and that consultation will be carried out. In general, the time limit concerned is as follows:

- (1) with respect to completed mergers and acquisitions, the TA must start investigations within two weeks, otherwise no review can be made on any completed mergers and acquisitions. The time limit will be specified in the enacted Bill. The TA is required to complete his investigations within the following three months; and

- (2) with respect to applications seeking a prior consent, the TA is required to complete review of applications of a simple nature within one month, and three months for applications of a complicated nature.

With respect to the Appeal Board, we have discussed with the Chairman of the Appeal Board on how the handling time can be shortened as much as possible, in the hope that the entire appeal procedure can complete within the shortest possible time while complying with the principle of due process. The preliminary opinion of the Chairman of the Appeal Board is that in normal circumstances, the Appeal Board may hear an appeal within three months and make a ruling. A written notice of the ruling can be issued 14 days thereafter. The Chairman wishes to set out the time limit in the practical procedures under section 32O(7) of the Telecommunications Ordinance in order that clearer directions can be provided to the industry.

In our opinion, the Bill as amended has fully reflected the views of all parties, including the industry and consumer groups. The Bill will promote effective competition in the telecommunications market and provide a clear and unequivocal regulatory regime to the industry which is conducive to its long-term development. It will serve to consolidate Hong Kong's position as a regional telecommunications hub. Therefore, I hope Members will lend their support to this Bill. Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Telecommunications (Amendment) Bill 2002 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(Members raised their hands)

Ms Emily LAU rose to claim a division.

**PRESIDENT** (in Cantonese): Ms Emily LAU has claimed a division. The division bell will ring for three minutes.

**PRESIDENT** (in Cantonese): Will Members please proceed to vote.

**PRESIDENT** (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Mr Kenneth TING, Mr James TIEN, Dr David CHU, Ms Cyd HO, Mr Albert HO, Mr Martin LEE, Mr Fred LI, Mrs Selina CHOW, Mr James TO, Mr CHEUNG Man-kwong, Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Mr CHAN Kam-lam, Mrs Sophie LEUNG, Mr SIN Chung-kai, Mr Andrew WONG, Dr Philip WONG, Mr WONG Yung-kan, Mr Jasper TSANG, Mr Howard YOUNG, Dr YEUNG Sum, Mr YEUNG Yiu-chung, Mr LAU Wong-fat, Ms Miriam LAU, Ms Emily LAU, Miss CHOY So-yuk, Mr Andrew CHENG, Mr SZETO Wah, Mr Timothy FOK, Dr LAW Chi-kwong, Mr TAM Yiu-chung, Dr TANG Siu-tong, Ms LI Fung-ying, Mr Henry WU, Mr Michael MAK, Mr Albert CHAN, Mr LEUNG Fu-wah, Mr WONG Sing-chi, Mr Frederick FUNG, Mr IP Kwok-him, Mr LAU Ping-cheung, Ms Audrey EU and Mr MA Fung-  
kwok voted for the motion.

Dr Raymond HO, Dr Eric LI, Dr LUI Ming-wah, Mr NG Leung-sing, Mr Abraham SHEK and Dr LO Wing-lok voted against the motion.

THE PRESIDENT, Mrs Rita FAN, did not cast any vote.

THE PRESIDENT announced that there were 50 Members present, 43 were in favour of the motion and six against it. Since the question was agreed by a majority of the Members present, she therefore declared that the motion was carried.



**CLERK** (in Cantonese): Telecommunications (Amendment) Bill 2002.

Council went into Committee.

### **Committee Stage**

**CHAIRMAN** (in Cantonese): Committee stage. Council is now in Committee.

### **TELECOMMUNICATIONS (AMENDMENT) BILL 2002**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Telecommunications (Amendment) Bill 2002.

**CLERK** (in Cantonese): Clause 4.

**CHAIRMAN** (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

**CHAIRMAN** (in Cantonese): Those against please raise their hands.

(No hands raised)

**CHAIRMAN** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

**CLERK** (in Cantonese): Clauses 1, 2, 3, 5, 6 and 7.

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): Madam Chairman, I move that the clauses which have just been read out be amended as set out in the paper circularized to Members. Next I will highlight the relevant amendments as follows:

Clause 1 is amended to make the Telecommunications (Amendment) Bill 2002 come into operation on a day to be appointed by the Secretary for Commerce, Industry and Technology. The relevant provisions will come into force after the guidelines made by the Telecommunications Authority (TA) have been implemented after public consultation.

Clause 2 is amended to include matters that the TA must consider in his review of merger and acquisition activities. The amendment seeks to enhance the clarity of the regulatory regime provided in the Bill.

Clause 3 is amended to achieve the following four objectives:

First, narrow down the scope of application of the Bill to provide that only when the three thresholds specified are crossed that the TA may review a proposed change and form an opinion whether the proposed change will substantially reduce competition in the telecommunications market. The thresholds concerned are that a person or associated person becomes the beneficial owner or a voting controller of more than 15%, 30% and 50% of the voting shares, or acquires voting control in a carrier licensee. Having taken on board the views of the industry, the amendment further provides that for new entrants, the lowest threshold is 30% instead of 15%. The Bill confers on the TA suitable powers to regulate merger and acquisition activities and provides the industry and investors with a clearer regulatory regime.

Second, the adding of the factor of "public benefit" obliges the TA to consider whether the benefit would outweigh any detriment to the public when he reviews such activities.

Third, to require that the TA must, before forming an opinion, making a decision or issuing a direction, give the carrier licensees concerned and the party making the acquisition a reasonable opportunity to make representations so as to enhance the transparency of the review of merger and acquisition activities.

Lastly, the Bill stipulates that the TA may recover the costs or expenses incurred in the processing of applications for the TA's prior consent. To

enhance clarity, the amendment imposes a cap on the fees charged. The Secretary for Commerce, Industry and Technology may change the cap by way of an order.

Clauses 5, 6 and 7 are amended to improve the appeal mechanism and to subject the powers of the TA to checks and balances. The amendments include the following:

- to provide that only the carrier licensees related to opinions, decisions or directions made by the TA may make an appeal;
- to extend the eligibility of persons making an appeal to parties making the acquisition; and
- to suspend the operation of any decision, view or instruction made by the TA after an appeal is lodged until a ruling is made by the Appeal Board or when the appeal is withdrawn or dropped.

The above proposed amendments have been scrutinized by the Bills Committee on Telecommunications (Amendment) Bill 2002 and members of the Bills Committee have indicated no objection to these amendments.

*Proposed amendments*

**Clause 1 (see Annex I)**

**Clause 2 (see Annex I)**

**Clause 3 (see Annex I)**

**Clause 5 (see Annex I)**

**Clause 6 (see Annex I)**

**Clause 7 (see Annex I)**

**CHAIRMAN** (in Cantonese): Does any Member wish to speak?

**DR ERIC LI** (in Cantonese): Madam Chairman, I would like to speak on the issue of transfer of shares. However, before that, I would like to declare my interest clearly. I am an independent non-executive director of Smartone Company Limited but I do not hold any shares of the company, nor receive any special benefits from it. Moreover, I have not been commissioned by the company to speak on this Bill. As members of the Bills Committee are aware, the views I hold reflect more of the views of the competitors of the company than the company itself. Therefore, I believe I have no conflict of interest in this matter.

The object of the Bill is, as I see it, to ensure fair and effective competition in the market. We all know that competition in the local telecommunications market is heated and in fact fair and effective. With the unexpected appearance of this Bill and as it is the only one to regulate competition in the industry, doubts have indeed been induced. Let us look at what Mr TUNG said about this in his policy addresses of 1997 and 1998. In 1997, he talked about building a culture and environment that stimulates creativity and welcomes advances in information technology. He was not only talking about fair competition but to boost the conditions for development. In 1998, he was more explicit about his intentions. In paragraph 31 of the policy address, it was stated that the Government aimed at speeding up development in the two largest technology-intensive industries, namely, broadcasting and telecommunications, by providing the best possible market conditions and the most effective regulatory environment. These are objectives set by the Government.

I would like to turn to some facts and history of the regulatory framework in the telecommunications industry. The industry does not have a long history in Hong Kong and its development in the territory is only a matter of years. In the five-year period from 1998 to the present, the foreign companies which invested here include NEC, Telstra, NTT Docomo, Chase Capital Partners, Asia Global Crossing, British Telecom, Societe Europeenne des Satellites, AT&T, Motorola and so on. It can be seen that during these five years, many foreign investors have taken part in the Hong Kong market and most of these market participants have provided much technology and software support and also effected international co-operation in some measure. Those who have since left the Hong Kong market include AT&T, Cable and Wireless, Motorola, Chase Capital Partners, Asia Global Crossing and British Telecom, leaving only Telstra and NTT Docomo. Now NEC holds only a small percentage of shares.

Over the five years, it can be seen clearly that the Hong Kong market has transformed from a growing international market to a localized "small pool". I hope Members will see why I have used the word "small". These foreign investors are mostly strategic partners and they seek to gain mutual benefits by co-operating with local partners in terms of technology, software and network. The ultimate goal is to develop an international network. If Hong Kong is to become an international information hub, as desired by the Government, then these international investors will be indispensable. However, these investors will not hold a large percentage of shares in Hong Kong, and they will only hold a very small amount of shares. The transactions which I was referring to are transfer of shares in the region of 5% to 60% only, or rather, most of them are between 14% to 50%. These fall precisely in the transactions which this Bill seeks to regulate, because such kind of free trading activities have increased. However, for these overseas investors, the Bill will to a certain extent produce more regulation and difficulties for them.

If we look around our neighbouring markets, we can see that developments in Japan, South Korea and Taiwan, and even in Singapore, have been much more intensive than Hong Kong over the past few years. If Hong Kong wishes to boast as an international information hub, and use the telecommunications industry as one of the four pillars of our economy, replacing the conventional industries, then I think that what we are doing is a step backward instead of forward. What we are heading is not a road to becoming international, but simply to make ourselves content with a small localized industry. Our market players are only some existing local big investors. With respect to our aspirations to becoming an important information hub in Asia and a major city of telecommunications in China, I think that this Bill will create only an adverse impact instead of anything positive.

In view of the above arguments, I opposed the Second Reading of this Bill. But as the amendment is to raise the percentage from 15% to 30% and that would be of some help, so I would abstain from voting on the amendment. Having said that, however, I will still oppose the Third Reading of this Bill.

**CHAIRMAN** (in Cantonese): Does any other Member wish to speak?

(No Member indicated a wish to speak)

**CHAIRMAN** (in Cantonese): Secretary for Commerce, Industry and Technology, do you wish to speak in reply?

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): Madam Chairman, with regard to the three points raised by Dr Eric LI, in fact, I responded to two of them in my speech after Ms Emily LAU had spoken. However, Dr Eric LI was not in the Chamber at that time. I hope it was not because Ms Emily LAU was to speak that he withdrew from the Chamber. If Dr LI were here, I would not have to go through the following again. But I would not mind saying it once again.

Of the numerous competitive industries in Hong Kong, the telecommunications industry has not been singled out on this occasion as the subject of regulation. In the Broadcasting Ordinance, there are also clear stipulations on the introduction of competition. If Dr LI cares to take a look at Question Number 20 today, where Ms Emily LAU asked a question for a written reply, he will find that Ms LAU has asked whether or not the acquisition of the Citibus by the New World First Bus is an act of monopoly. The answer is in the negative. For there are competition provisions in the takeover. So it is not right to say that the telecommunications industry has been singled out for regulation.

As to the question of fierce competition, the main objectives of the Bill are on matters related to mergers and acquisitions and so fierce competition is not a consequence of the absence of competition provisions in the Telecommunications Ordinance. As a matter of fact, such terms on competition have been incorporated into the Telecommunications Ordinance. We think that competition terms should be extended to cover mergers and acquisitions because this is conducive to striking a balance between the interests of the operators and consumers.

Thirdly, on the question of foreign investors. The companies that quoted by Dr Eric LI to have withdrawn from the Hong Kong market all sold their businesses to other investors or the original investors at a time they thought fit. Some of them changed their investment strategies. For example, the Singaporean investors thought that since the Average Revenue Per User (ARPU) rate of mobile telephones was falling, so they would rather invest in other projects such as building submarine cables. Some investors from the Mainland also make investments in Hong Kong. What they do is that they would observe

the market closely before choosing some projects which they think are most beneficial to their companies for investment. They also invest in some of these so-called cable services, that is, wire services. I therefore believe that in terms of attracting inward investments, Hong Kong offers a very open and free environment for investment. I think Dr Eric LI is also well aware of that. For this reason, we believe we have struck a proper balance in this regard.

Thank you, Madam Chairman.

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the amendments moved by the Secretary for Commerce, Industry and Technology be passed. Will those in favour please raise their hands?

(Members raised their hands)

**CHAIRMAN** (in Cantonese): Those against please raise their hands.

(No hands raised)

**CHAIRMAN** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

**CLERK** (in Cantonese): Clauses 1, 2, 3, 5, 6 and 7 as amended.

**CHAIRMAN** (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

**CHAIRMAN** (in Cantonese): Those against please raise their hands.

(No hands raised)

**CHAIRMAN** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

**CLERK** (in Cantonese): New clause 1A Interpretation

New clause 2A Issue of licences

New clause 8 Licences which are not carrier licences within the meaning of section 2

New clause 9 Schedule 2 added

New clause 10 Schedule 3 added.

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): Madam Chairman, I move that the new clauses read out just now be read the Second time to add two Schedules which set out the matters which the Telecommunications Authority (TA) must consider in reviewing merger and acquisition activities and the maximum amount to be charged for costs and expenses incurred in processing applications for the TA's prior consent, that is, \$200,000. Thank you, Madam Chairman.

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the new clauses read out just now be read the Second time.

**CHAIRMAN** (in Cantonese): Does any Member wish to speak?

(No Member indicated a wish to speak)

**CHAIRMAN** (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

**CHAIRMAN** (in Cantonese): Those against please raise their hands.

(No hands raised)



**CHAIRMAN** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

**CLERK** (in Cantonese): New clauses 1A, 2A, 8, 9 and 10.

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): Madam Chairman, I move that the new clauses read out just now be added to the Bill.

*Proposed additions*

**New clause 1A (see Annex I)**

**New clause 2A (see Annex I)**

**New clause 8 (see Annex I)**

**New clause 9 (see Annex I)**

**New clause 10 (see Annex I)**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the new clauses read out just now be added to the Bill.

**CHAIRMAN** (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

**CHAIRMAN** (in Cantonese): Those against please raise their hands.

(No hands raised)

**CHAIRMAN** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

**CHAIRMAN** (in Cantonese): Council now resumes.

Council then resumed.

### **Third Reading of Bill**

**PRESIDENT** (in Cantonese): Bill: Third Reading.

### **TELECOMMUNICATIONS (AMENDMENT) BILL 2002**

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): Madam President, the

Telecommunications (Amendment) Bill 2002

has passed through Committee with amendments. I move that this Bill be read the Third time and do pass.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Telecommunications (Amendment) Bill 2002 be read the Third time and do pass.

**PRESIDENT** (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(Members raised their hands)

**PRESIDENT** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

**CLERK** (in Cantonese): Telecommunications (Amendment) Bill 2002.

### **Resumption of Second Reading Debate on Bill**

**PRESIDENT** (in Cantonese): We will resume the Second Reading debate on the Betting Duty (Amendment) Bill 2003.

### **BETTING DUTY (AMENDMENT) BILL 2003**

#### **Resumption of debate on Second Reading which was moved on 9 April 2003**

**PRESIDENT** (in Cantonese): Mrs Selina CHOW, Chairman of the Bills Committee on the above Bill, will now address the Council on the Committee's report.

**MRS SELINA CHOW** (in Cantonese): Madam President, in my capacity as Chairman of the Bills Committee on Betting Duty (Amendment) Bill 2003 (the Bills Committee), I now report on the deliberations of the Bills Committee. As the deliberations of the Bills Committee are already set out in the report in details, I will only highlight the major deliberations of the Bills Committee.

The Bills Committee held its first meeting on 9 May and completed its scrutiny on 24 June. Though the schedule for the scrutiny of the Betting Duty (Amendment) Bill 2003 (the Bill) was rather tight, the Bills Committee still held 12 meetings to scrutinize the Bill. The Bills Committee met with 82 deputations and individuals at four of such meetings.

The main purpose of the Bill is to empower the Secretary for Home Affairs (SHA) to authorize a company to conduct betting on football matches under a licence and also empower the Collector of Stamp Revenue to charge a duty in relation to authorized betting on football matches.

Many organizations and individuals from the religious, education and social service sectors have expressed strong views on the authorization of football betting. Members of the Bills Committee also have very different views on the authorization of football betting. On the whole, members

belonging to the Democratic Party oppose the authorization of football betting. Since football is a popular sport among juveniles, these members are concerned that publicity efforts on football betting will be stepped up after its authorization and juveniles will be easily attracted to football betting. They consider that authorization of football betting will have an adverse impact on the community and juveniles in particular. They also consider that authorization of football betting will lead to an increase in illegal football betting activities, instead of eradicating them.

On the other hand, members belonging to the Liberal Party are supportive of the authorization of football betting. They point out that there is no conclusive evidence proving that football betting would lead to an increase in problem and pathological gamblers. These members further point out that gambling-related problems have all along existed in Hong Kong and authorization of football betting should not be deemed as the cause to these problems. They consider that the most important issue is how the Government implements measures to address gambling-related problems, in particular the problem of underage betting, and provide assistance to problem and pathological gamblers.

Some members of the Bills Committee have also expressed concern about the impact of authorization of football betting on the community and juveniles in particular. These members consider that the Administration must take adequate and effective measures to address the problem of underage betting and pathological gambling if football betting is authorized.

The Administration has informed the Bills Committee that it will put in place appropriate measures to minimize any negative social impact of authorization of football betting. These measures include:

- (i) setting up an independent Gaming Commission to ensure effective regulation;
- (ii) a stringent three-tier operational and regulatory framework, that is, statutory provisions proposed in the Bill, licensing conditions to be issued by the SHA and the codes of practice to be issued by the SHA from time to time to give guidance on how the licensing conditions should be compiled with; and

- (iii) setting up a dedicated fund for addressing gambling-related problems.

As members are generally concerned about the possible impact of the betting problem on the community, the Bills Committee spent a lot of time on discussing public education measures on preventing problems related to betting and counselling and treatment services for problem and pathological gamblers. Members think that the Administration should speed up the implementation of measures on addressing gambling-related problems, review the service requirement on a regular basis and provide the necessary resources.

At the request of the Bills Committee, the Administration has undertaken that it would make a progress report to the Panel on Home Affairs at its first regular meeting in the next Legislative Session on measures for addressing gambling-related problems and enforcement actions taken by the police in combating illegal football gambling activities.

The Administration has also agreed that the SHA would give an undertaking in his speech during the resumption of the Second Reading debate of the Bill that the Government would ensure that there would be adequate funding for implementation of measures to address gambling-related problems.

Ms Cyd HO is of the opinion that authorized football betting should not be conducted before the Administration has introduced measures to address gambling-related problems. Later on, she would move a Committee stage amendment to clause 1 of the Bill to the effect that the Amendment Ordinance would come into operation on 1 January 2004.

Under proposed section 6H in the Bill, betting duty is charged at a rate of 50%. According to the estimate of the Administration, the authorization of football betting will generate \$1.5 billion in betting duty per annum.

Mr Andrew CHENG and Mr Timothy FOK are of the view that a certain percentage of the duty revenue generated from football betting should be earmarked for promotion of the football sport. However, the Administration does not share this view. It is of the opinion that the development of local football sport should primarily be funded by public expenditure from the Government. Moreover, the primary objective of authorizing football betting is

to combat the problem of illegal football gambling, and this has no direct relationship with raising funds for the development of the local football sport.

The Bill proposes to set up a Gaming Commission to advise the SHA on the regulation of the conduct of football betting and lotteries. According to the Bill, the Chief Executive will appoint three public officers and no less than eight persons who are not public officers as members of the Commission, and one of the members as the chairperson of the Commission. Later on, the Administration will move a Committee stage amendment to the effect that the chairperson of the Commission will be a non-official member.

Ms Cyd HO is concerned that the scope of football betting activities would become more extensive in the future. She is of the view that the Commission should comprise members holding opposing views to authorization of football betting in order to prevent inadequate regulation in future. After considering members' views, the Administration has agreed to move a Committee stage amendment to the proposed section 6B, specifying that the composition of the Commission should include one representative each from the education, social welfare and religious sectors.

Under proposed section 6G in the Bill, the licensing conditions for football betting may be laid down by the SHA in the form of administrative arrangements, among which the condition on the categories of matches on which betting may be conducted is included. According to the proposal of the Government, with the exception of football matches in which the Hong Kong team has taken part, betting may be made on all major professional football leagues, international football tournaments or competitions.

Mr Andrew CHENG is of the opinion that Legislative Council should assume a monitoring role over the future licensing conditions. He has requested that the types of matches and bets allowed should be clearly specified in the licensing conditions and these conditions should be stipulated in the Bill or in a schedule to the Bill by way of subsidiary legislation.

The Administration said that it is appropriate to set out only the generic match types and bet types in the licence, instead of spelling out a finite list of specific match types and bet types. Given the highly competitive nature of the global football betting market, the flexibility to promptly adjust the bet types,

betting rules and match types within the generic categories set out in the licence is essential to ensuring that the licensed operator can effectively compete with illegal bookmakers. Moreover, given the dynamic nature of the football betting business, it would be practically difficult to conclusively set out both the names and technical descriptions of the various matches and bet types in the licence or the legislation for this purpose.

Madam President, later on, Mr Andrew CHENG will move a Committee stage amendment to specify the categories of football matches to be authorized in a schedule to the Bill and the SHA may only authorize the licensed operator to conduct football betting in respect of the categories of football matches specified in that schedule.

As regards underage betting, members note that to prevent underage betting, the licensee shall not accept bets from any person under the age of 18 years or any request for payment of winnings from any person under the age of 18 years. The licensee is required to take reasonable measures to prevent admission of persons below the age of 18 years to its betting premises. The Administration also informs the Bills Committee that the Hong Kong Jockey Club (HKJC) has put in place measures to prohibit persons under the age of 18 years from participating in betting.

However, some members are still worried that the measures to be adopted by HKJC may not be adequate to prevent underage gambling. They are concerned that juveniles can easily participate in football betting through an intermediary who is either their relative, an adult friend or schoolmate.

Members note that there will be a ceiling on the number of betting outlets, and this will be amended by the SHA from time to time, and that the SHA's prior approval will be required for the opening of new outlets. Members express concern that as many major international football matches will be held during late night hours, the operation of betting outlets would cause disturbance to the residents nearby.

The Administration has informed the Bills Committee that at present, the HKJC plans to extend the closing time of its offcourse betting branches (OCBBs) from 11.15 pm to 11.30 pm for the purpose of accepting bets for authorized

football betting. If the HKJC thinks there is a need in the future, it will extend the operating hours of the OCBBs to beyond 11.30 pm, and this would be considered by the SHA on the basis of their individual merits. In response to members' request, the Administration undertakes that the relevant District Councils would be consulted as appropriate and factors like whether the outlet is located in a commercial building or whether it would create nuisance to the neighbourhood would be taken into account.

Mr Andrew CHENG points out that even if a betting outlet is located in a commercial complex, its operation may still affect nearby residents. Mr CHENG has informed the Bills Committee that he would move a Committee stage amendment to specify the closing hours of betting premises in a schedule to the Bill.

Under proposed section 6X in the Bill, the SHA may issue codes of practice from time to time to give guidance on how the licensing conditions may be compiled with. Members are of the view that the Legislative Council and members of the public should play a monitoring role in relation to the codes of practice that the SHA may issue in relation to football betting and lotteries.

The Administration has explained that the SHA would issue such codes of practice only when necessary. For example, if the licensed operator breaches the licensing conditions by engaging young people's idols in publicity and promotion work, the SHA may issue codes of practice to put an immediate stop to such activities of the licensed operator. Under such urgent scenarios, the Administration will not have time to conduct any consultation exercise before issuing the codes of practice.

However, the Administration has agreed to consult the Panel on Home Affairs, and that is, the Panel on Home Affairs of this Council, as far as possible on provisions expected to be included in the codes of practice. The Administration has also pointed out that the Gaming Commission, which comprises members from all sectors of the community, will also offer advice to the SHA on matters concerning the issuance of the codes of practice.

At the Bills Committee's request, the Administration has agreed that during the resumption of the Second Reading debate of the Bill, and that is at this



stage, the SHA will give an undertaking that the placing of hedging bets by a football betting conductor will be closely monitored and he will also set out the areas that will be included in the hedging policy submitted by a football betting conductor. The Secretary will also address the issue of the possible impact of authorization of football betting on social morals. I believe the Secretary will elaborate on this in his speech later on.

At the request of members, the Administration has also agreed to move a number of amendments, including:

- (i) the name, composition and procedures of meetings of the Gaming Commission;
- (ii) the licensing conditions for football betting; and
- (iii) the relevant appeal mechanism.

The Bills Committee does not object to the Committee stage amendments to be proposed by the Administration, that is, the amendments mentioned above.

Madam President, the following are my personal views on the Bill.

When we talk about football betting, I believe many people will associate it with the topic of morality. That being the case, today, I will talk about the authorization of football betting from the perspective of morality. First of all, I would like to ask: Adults are capable of independent thinking and distinguishing right from wrong, so if an adult engages in betting without causing any harm to others, then who would have the right to tell him that he should not gamble? Every adult can choose whether or not to engage in football betting, in very much the same way as they can choose whether or not to smoke, drink, bet on horse races or buy Mark Six Lottery tickets. We cannot make decisions for any adults, saying that for their own good, they should not engage in football betting! If we do so, then we may also have to ban smoking, alcoholic drinks and the Mark Six Lottery. From the moral point of view, that is, from the moral perspective, on the question of whether the authorization of football betting is right or wrong, I think that it is rather difficult to link up the two issues. It can be said that football betting simply should not be associated with moral issues.

Furthermore, some people say that the authorization of football betting will turn more people into pathological gamblers. I would like to ask: Some people are now addicted to alcohol, but should alcoholic drinks be banned for this reason? In fact, even before the authorization of football betting, pathological gamblers are already in existence, so we should not attribute pathological gambling wholly to the authorization of football betting.

What is more, since there is already authorized betting on horse races, why should football betting not be authorized? Football betting has always been in existence. The fact that we have not authorized it has given unruly elements opportunities to engage in illegal activities, and the Government's failure to check such activities has led to even greater harms. It is high time we authorized and monitored football betting so that it can be conducted in an orderly manner. Will this not be good to society?

Some other people argue that football is a healthy sport, so it should have nothing to do with gambling. This argument reminds me of a bottomline which we logically gave up when we authorized gambling on horse races. Has the sport of horse riding thus become an unhealthy pursuit just because there is gambling on horse races? Can we have told people that betting on horse races will adversely affect horse riding as a sport for young people? In fact, we should try to balance the interests of all sectors of the community and seriously consider why football has become so popular worldwide. In many countries, the sport of football has reached a very high professional standard, and the standard has been rising. We also know that some world famous football stars such as David BECKHAM and Michael OWEN are professional football players. They are widely known, not only in their own country, but also in other countries, largely because the sport of football has developed so rapidly into something like an industry. Besides being a sport, football is also an industry. In fact, football betting is already conducted in many countries and regions, so football is no longer purely an amateur sport.

I would like to stress that we are only authorizing football betting but not promoting or encouraging it, in very much the same way as we do not outlaw smoking and drinking while refraining from encouraging anyone to do so. Adults are mature in thinking, so they are free to choose whether or not to bet on football; but youngsters are not, so we must protect them by taking measures similar in purpose to the three-tier movie classification system and the ban on

selling alcohol and cigarettes to people under 18 years of age. Likewise, in the case of football betting, we should also ensure that the licensee will not allow underage persons to place bets. The HKJC has a very good track record in this respect, so it is a trustworthy operator.

I understand very well that many front-line social workers, educationalists and members of the religious sector have more opportunities than all the Members here to come into contact with pathological gamblers, their families or friends. So, they are more sensitive to these problems and may have stronger views than ours. However, I also hope that they can have confidence in Hong Kong people, can have faith in Hong Kong as a high quality and mature society, can trust that Hong Kong people are capable of distinguishing between right and wrong, and can respect their freedom of choice. At the same time, I also think society's preparations in this respect and financial support can provide appropriate solutions to such problems. I think that addiction to gambling is after all a psychological problem, and we cannot rely totally on the Government to prevent and solve this problem. Individuals and families should also share the responsibility of developing a healthy lifestyle.

Thank you, Madam President.

**MR ANDREW CHENG** (in Cantonese): Madam President, on behalf of the Democratic Party, I oppose the resumption of Second Reading of the Betty Duty (Amendment) Bill 2003 (the Bill).

I would like to state at the outset that, whether in the case of the legalization of gambling or authorization of football betting, our opposition has never been based solely on moral principles, because we have always thought that not only moral principles are involved. At various meetings, we never, or at least, I personally never attempted to base our argument on any moral principles when speaking for the Democratic Party. We raised so many arguments and objection basically because we think that the Government's current policy on gambling actually touches upon the question of lifting the ban on gambling, or let me put it that way, the authorization of football betting is a very complicated issue of social policy, which has implications for various other social policies including those on tax revenue, security, youth education, pathological gamblers and even sports.

Therefore, Madam President, in the following part of my speech, I wish to explain the various reasons underlying our opposition to the Government's authorization of football betting and why work has to be done in different policy areas.

Madam President, the new season of the German Federal League Division 1 will kick off on 1 August, and though there is still quite some time before this, many websites on gambling have already offered odds on various matches. Barring unforeseen circumstances, just a matter of days after the passage of the Bill, the Hong Kong Jockey Club (HKJC) will start to accept bets from the public on German Federal League Division 1 matches, in an attempt to compete with overseas football betting conductors and illegal bookmakers here in Hong Kong.

Madam President, the authorization of football betting with the purpose of competing with illegal bookmakers for business is precisely the greatest worry of the Democratic Party and me. The first and second justifications put forward by the Government to the Bills Committee on resuming the Second Reading debate of the Bill today are that the increasing severity of illegal football betting has brought forth a pressing need to authorize and regulate football betting before the start of the football season in August, and that the adverse impacts of illegal football betting can be reduced after authorization. We maintain that instead of competing with illegal bookmakers, we should rely on strong police enforcement actions to combat illegal gambling activities. In the case of horse betting, for example, there was royal sanction in the past and today it is conducted by the HKJC, but unfortunately, illegal gambling still exists today.

The Government has always said that it does not encourage gambling, but that if there is any persistent demand, legal channels will be put in place to satisfy such demand. We think that this concept is self-contradictory in nature. There is a policy of not encouraging gambling, but there is at the same time legal gambling, which fan the flame of such a habit, thus increasing the gambling population. This is really very absurd and self-contradictory.

In its letter to Members a few days ago, the Government says that the authorization of football betting will not lead to a surge in the prevalence rate of pathological gambling, and that the underage gambling problem will not be aggravated. Regrettably, a Hong Kong Polytechnic University survey commissioned by the Government has come up with findings quite different from

the claims of Government. According to the survey, 49.2% of those respondents at school have participated in social gambling activities on social occasions; about 20% have betted on the Mark Six Lottery; and, underage persons are more enthusiastic than other members of the general public in betting on different sports-related gambling activities. The prevalence rate of "possible pathological gambling" among this group is 2.6% and this is even higher than the rate of 1.8% among adult respondents aged 18 to 64. We maintain that whether or not football betting is legalized, preventive measures on protecting juveniles against gambling must be formulated. And, we also think that even if such measures are put in place after the legalization of football betting, the chances of young people acquiring the gambling habit will still be higher than that before legalization. In fact, once football betting is conducted by the HKJC, the off-course betting branches (OCBBs) of the HKJC in different districts can accept bets from the public. At present, young people who look older than their age can visit off-course betting centres whenever they like, and even if they are eventually refused entry, they can still ask other people to place bets for them. When compared with football betting on websites and in bars, football betting will be more easily accessible to juveniles because there will be 100 or so OCBBs all over the territory. Moreover, since offshore web-gambling must be transacted on credit cards, there is in effect an age restriction. Therefore, it is wrong for the Government to conclude that the legalization of football betting will not lead to a surge in pathological and underage gambling problems. If the Bill is passed today and football betting starts operation from August, the Government will not have enough time to put in place its preventive measures, such as websites, teaching materials and counselling services, so there will be a time lag of six to nine months. We think that it is extremely unwise to implement football betting in such great haste without taking into account whether the matching measures can tide in with the launch. This will only make more unwary young people fall into the trap of football betting. Therefore, though we oppose the Government's resumption of the Second Reading and Third Reading of the Bill, if the Bill is passed by a majority of Members, we will still seriously consider Ms Cyd HO's amendment. This is because if the effective date of the Bill is set on 1 January next year, the Government will have more time to formulate more satisfactory matching measures on football gambling.

Madam President, in 1996, two United States academics conducted a joint study on the legalization of gambling; they pointed out that this would lead to a further increase in social costs, and the loss would be greater than the gain in the

end. According to their study, after the legalization of gambling, every adult in the United States would each have to bear an annual social cost of US\$112 to US\$338 on average. However, the tax revenue derived from various gambling activities would bring a benefit of not more than US\$56 to each American adult. The findings of this study can show precisely that the legalization of football betting cannot possibly bring any substantial economic benefits to us. According to the experience of overseas countries in legalization of gambling, certain social groups will be particularly attracted to gambling. In Canada, the amount which the lower classes spend on gambling is four times that of the middle and upper classes; in Australia, gamblers are mainly people from the middle and lower income groups and those on welfare. In such cases, increases in the spending on gambling will see a corresponding decrease in other household expenses, including those on entertainment and learning. Madam President, legalization of football betting is highly likely to result in the flourishing of one trade at the expense of all others. It is likely to benefit the betting business and the HKJC but deal a blow to other trades.

According to one government estimate, there may be a betting volume of about \$30 billion in the first year of legalized football betting and the net profits may be \$3 billion. Since the Bill provides that the net profit is to be shared equally between the HKJC and the Government, the Government estimates that there will be a tax revenue of \$1.5 billion in the first year. For this reason, the Government has requested to resume the Second Reading debate on the Bill today under the pretext that it has to make an early estimate on the duty revenue. However, the Government has all along said that fiscal revenue is not a factor of consideration in the legalization of football betting. But it has now resorted to the estimated \$1.5 billion as a reason for legalizing football betting at an earlier date. The deeds of the Government seem to show us that it has been saying one thing but doing another.

In the course of scrutiny, the Bills Committee received many submissions from the public, the majority of which was against the legalization of football betting. The submission of a Mr FONG Him, an accountant, was really full of insight. Let me quote some of his opinions: If the Government is right in projecting a \$30 billion betting volume, then when the gambling population reaches 1 million, the annual betting amount per capita per year will be as much as \$30,000 on average. However, he also expressed doubts about the estimate of the Government. According to him, even in the case of Ladbrokes, the largest bookmaker in the world, which conducts betting on virtually every known

sport on earth, such as football, horse races, NBA, tennis, and so on, and which offers all types of betting, the combined betting volume for the United Kingdom and on-line betting is only HK\$45.7 billion per year. That being the case, how can the Government expect to see a \$30 billion betting volume in the first year of football betting conducted by the HKJC? We must not forget that the Government has indicated that it will only conduct betting on a few types of major European football matches. So, is the estimated \$30 billion betting volume much too high?

Furthermore, I notice from the results recently announced by the Sociedade de Jogos de Macau, that it managed to reap only a net profit of some \$102 million from football betting last year. Hence, I think the SAR Government is much too optimistic in estimating that the HKJC will bring an annual revenue of \$1.5 billion to the Government in future. Moreover, a revenue of merely several hundred million dollars will not be able to offset the social cost incurred due to the aggravation of the gambling habit.

Madam President, the Democratic Party thinks that whether or not the Government's estimated betting volume is correct, the conduct of football betting will still bring about the effect of encouraging gambling. If the Government is correct in its estimate, then we can expect to see large numbers of people engaging in gambling. If the Government is incorrect in its estimate, then we fear that the Government's desire for more tax revenue and the HKJC's wish to achieve better results and net more profits may lead the former to allow the latter to conduct betting on more types of football matches, even including some very less popular football matches, such as the football matches of Finland, Norway, Sweden as well as the China A-League matches, so as to compete with other on-line bookmakers. And, this will certainly encourage gambling.

Despite my opposition to the legalization of football betting, in the course of the Bills Committee's deliberations, I still expressed the hope that after the legalization of football betting, part of the tax revenue, or a fixed proportion, can be used to support the development of local football sport. Everyone knows that football is an ailing sport in Hong Kong, its ranking being one of the lowest in the world. In Asian or other international matches, Hong Kong players have disappointed local football fans greatly. The documents submitted by the Government at the meetings of the Bills Committee showed that other countries such as the United States, Australia and New Zealand have actually allocated a certain percentage of their tax revenue from gambling to support local sports.

Such documents also showed that Japan, Singapore, South Korea and Italy have allocated a certain proportion of their revenue from the betting duty to support their football sport, including the renovation of sports facilities, the training of coaches and athletes and the sponsoring of professional football associations. Regrettably, our SAR Government has only focused on collecting duty to reduce its deficit, without considering allocating part of the revenue generated from football betting to promote the football sport or other sports activities. Besides a sound framework, sufficient resources also play a part in bringing about the prosperous development of football in Japan and South Korea. If our SAR Government is far-sighted, then it should also consider assisting the development of local football by means of fiscal measures. In fact, if our football teams can achieve good results in international matches, an inestimable cohesive force in Hong Kong will be created. This is also an effective way to unite the people of Hong Kong. Therefore, I hope that even if football betting must be conducted, consideration should still be given to how best the development of football sport can be helped by fiscal measures.

Madam President, I shall move a number of amendments at the Committee stage mainly for the purpose of effecting regulation which is more appropriate than that provided under the original Bill and the Government's proposed amendments once football betting is legalized. The amendments include specifications on the categories of football matches, the opening hours of OCBs and the conduct of open meetings by the Football and Lotteries Committee and the prohibition on giving away football and lottery tickets to young people under 18 years of age.

I shall explain these amendments in detail at the Committee stage.

With these remarks, Madam President, I oppose the resumption of the Second Reading of the Bill.

**MR IP KWOK-HIM** (in Cantonese): Madam President, in recent years, controversies over the legalization of football betting have never ceased in the community. I believe the controversies should come to a close after today. Legalization of football betting is a social issue. Views on the legalization of football betting are divergent in the community, and there has been no consensus view. The same has happened to the Democratic Alliance for Betterment of Hong Kong (DAB) internally. Both the supporters and opponents of



legalization have put forth arguments which they consider to be justified. We respect these different opinions.

The DAB will oppose this Bill. The DAB is of the view that it is not the best and most effective way to combat illegal football betting by authorizing football betting, for such authorization may prompt even more people to engage in gambling activities. It is not our wish to see more and more people taking part in and even becoming addicted to gambling.

The main argument of the Government for authorizing football betting is that the public has a very large demand for football betting, and as such demand can be satisfied only by illegal bookmakers now, the Government, in order to respond to public demand, can only guide people who engage in illegal football betting to place their bets via legitimate channels. If this argument for authorization is valid, I am afraid that there would be strong grounds for many demands in society to be met by way of authorization, such as the operation of casinos. In fact, the SAR Government will from time to time crack down on illegal gambling dens, and many Hong Kong people do go to Macao for gambling. So, there is apparently a certain demand for casinos in Hong Kong. Should we then authorize the operation of casinos just because there is this demand? Tax receipts from casinos in Macao amounted to \$8 billion last year. Such being the case, if the SAR Government authorizes the operation of casinos in the territory, we can envisage that the tax revenue so generated will outstrip that of football betting. Yet, the DAB reiterates that we will not support the authorization of football betting on the ground of a large demand and sizable tax receipts.

We hold that we still have to rely on the Police Force to combat illegal gambling activities. The police have cracked down on illegal gambling dens, illegal horse betting and illegal football betting syndicates with the intelligence collected. Disregarding the passage of this Bill or otherwise, the police should continue to take effective measures to combat illegal gambling activities.

At the Bills Committee, government representatives also admitted that the authorization of football betting might cause the number of people taking part in gambling to rise. I am worried that the legalization of gambling activities would result in participation by more and more people. Overseas studies have proven that gambling activities will increase when the economy is in the doldrums and the people are worried about the future. In recent years, the

number of Hong Kong people engaging in illegal football betting has increased. One of the reasons is believed to be related to a less than optimistic view held by the people on the economy. When faced with economic pressure, some people may gamble excessively hoping to win a fortune. The DAB does not wish to see that more people become addicted to gambling as a result of the authorization of football betting.

The DAB welcomes the setting up of a dedicated fund by the Government to address the social problems caused by gambling. This fund will provide funding for gambling-related studies, measures on public education as well as the two service centres for the counselling and treatment of pathological gamblers. The DAB considers these arrangements will be helpful to alleviating the social problems brought by gambling. However, we must emphasize that the implementation of these measures should not be affected by the passage or otherwise of this Bill.

Authorization of football betting has its pros and cons. The advantages are that people can gamble on football matches through lawful channels and the Government will be able to generate duty revenue exceeding \$1 billion per annum. The business turnover of bars and shops will hence rise, and the Hong Kong Jockey Club can increase the number of jobs, which will help reduce the unemployment figures. Nonetheless, the disadvantages are that the number of gamblers may increase and this may give rise to other social problems. After taking into full consideration the supportive and opposing views, the DAB will oppose the Bill and therefore, we will not support the amendments proposed by Ms Cyd HO and Mr Andrew CHENG.

I so submit.

**MISS MARGARET NG:** Madam President, I support the Second Reading of the Bill. I do so as a matter of principle. I do not consider it right to make gambling, including football betting, a criminal offence. I understand that excessive gambling, particularly compulsive gambling, is one of the causes of social and family problems. But that does not make gambling by itself a matter of criminalization. It may be a matter for regulation and control.

I have stated my position in the Second Reading debate of the Gambling (Amendment) Bill on 22 May 2002. I was against the Bill because it sought to

criminalize offshore gambling. That is, it expanded the existing criminal sanction against gambling to offshore gambling which was previously lawful. At that time, I pointed out that the Government's position was self-contradictory. It was inconsistent to criminalize offshore gambling on one hand and decriminalize football betting on the other hand. If licensing and regulation are the right approach for football betting in Hong Kong, the same approach must be right for offshore football betting and all kinds of offshore gambling. The same arguments should apply in both cases.

At the time of the Gambling (Amendment) Bill, one of the arguments of the Government for criminalization was protecting the revenue. I disagreed. I objected to criminalizing a lawful act just to protect the income of the Hong Kong Jockey Club. The proper way to protect the revenue is by tightening regulation.

For the very same reasons, I support the Bill which is now before this Council. I said then and I say now: Gambling is not so wrongful an act as to justify criminalization. This is not the existing social standard. If what needs to be prevented is widespread excessive gambling, then the remedy lies in social and school education and family counselling. I do not belittle the very strongly expressed concerns of some of my colleagues and a number of social groups, including religious groups which have made many representations to us. Their conviction that gambling is immoral must be respected. They take the stance that moral principles should not be sacrificed for the sake of revenue and they are right. Their description of the social problems and sufferings of families brought about by the excessive or obsessive gambling of a member of the family are very real.

In that regard, I am glad to note that the Government has been and will continue to be in constant dialogue with these groups in order to address the concerns that they have raised. There are no shortcuts. Long-term and sincere co-operation between the Government and the community is necessary to contain these problems.

I am glad to note especially that, arising from the discussion and consultation with groups opposing the Bill, the Government has taken the initiative to set up a dedicated fund, one of the purposes of which is research and studies on gambling-related problems. Given the long existing social problems, it is time some systematic empirical analyses were obtained to guide future policy.

The other initiative is the Government's undertaking to commission academic institutions to conduct tracking surveys on the impact of the implementation of this Bill after it has been passed. Actually, this kind of tracking survey should be done as a matter of course for all major new policies. We need objective, independent and professional monitoring. Feedback is necessary for improvement or, where necessary, revision or even retraction of a policy.

With these words, Madam President, I support the Second Reading of the Bill.

**MS CYD HO** (in Cantonese): Madam President, personally I do not think it worthwhile to criminalize gambling, nor do I think there is any particular reason that it should be banned by legislation. After authorization, frauds committed by offshore bookmakers can be reduced. Therefore, there is no particular reason that I should oppose the legislation.

However, we can see that religious, education and social service groups are strongly opposed to football betting on account of their moral principles. Even though the Government does not agree with their views and hopes to ban offshore betting by legislation, still I think Members should respect the perseverance of these groups, in particular, their spirit and actions in striving to advocate their convictions. I hope the general public can look up to their example and use the same amount of time and action to uphold their convictions in matters of principle.

(THE PRESIDENT'S DEPUTY, MRS SELINA CHOW, took the Chair)

In fact, the Great Coalition to Oppose Legalization of Soccer Betting has held discussions with us with an attitude of seeking common grounds and putting aside differences. I made clear from the outset, and the Great Coalition to Oppose Legalization of Soccer Betting had also known beforehand, that personally I did not oppose football betting. However, based on mutual respect, we had discussions on a series of amendments that could be proposed and the authorities also accepted most of the proposals. In future, it is worthwhile for us to use this approach of interactive discussion as reference.

The worries expressed by deputations about the social impacts of legalizing football betting should also merit our concern. For example, pathological gambling is precisely a very good subject brought into light by the public policy debate on this occasion. This subject has never been sufficiently discussed by us before. It is necessary for the SAR Government to give a response and deal with it appropriately.

Madam Deputy, recently, after undergoing the incident concerning the legislation to implement Article 23 of the Basic Law, the Government should realize that to bulldoze a bill through the legislature by dint of the number of votes can cause serious social division. Officials should adopt an open attitude towards supportive and opposition views. If a consensus cannot be reached after impartial consultations and detailed debates and a bill is thus passed, the Government should explain as far as possible to the people and groups holding dissenting views and embrace them into the future advisory framework, so as to encourage everybody to monitor the Government and the Hong Kong Jockey Club (HKJC) together and thus allay their concerns. Actually, by doing so, the momentum of non-governmental organizations can also be absorbed to effectively take forward together the education on and counselling for pathological gambling behaviour.

The Government has taken on board this view and an amendment will be proposed by the authorities to require the appointment of members from the religious, education and social service sectors to the Football Betting and Lotteries Commission (the Commission). This is a very positive step. After rational discussions, all parties remain respectful of each other and get along together, while holding onto their own independent thinking, with the losers being given channels of continued participation by the magnanimous winners. This can serve to maintain social cohesion better than otherwise engagement in a zero-sum game of all or nothing.

At present, there are two major tasks that the Government is obliged to tackle to allay the concerns of opposition groups: firstly, to make the general public understand the bane of compulsive and irrational gambling and provide the necessary counselling and therapy to pathological gamblers; secondly, to prevent young people, who still lacks adequate discretion, from being affected by the undesirable influence of gambling and from picking up such a habit at an early stage, thus becoming pathological gamblers from a young age.

Firstly, on dealing with pathological gambling. The Government has reached an agreement with the HKJC to allocate funds ranging from \$10 million to \$20-odd million in each year of the football betting licence period to set up a fund. But according to a survey by The Hong Kong Polytechnic University, it is estimated that among people who have not yet come of age, about 12 000 people belong to the group of "probable pathological gamblers". Thus, the resources so allocated to the fund can only provide service to less than 20% of the people, that is, about 2 300 persons only. This is far from adequate. Therefore, I hope that the Government can review the demand for this service and provide additional resources when necessary to meet additional expenses.

In addition, the therapy for pathological gambling should not be linked to licensing. I very much agree that with or without football betting, pathological gambling behaviour has always existed. The Government should make the fund for the provision of therapy to pathological gamblers a recurrent expenditure and make provisions annually for this purpose.

Secondly, on the measures to prohibit underage people from taking part in gambling. Apart from education, the HKJC has also made on undertaking to adopt a series of measures to prohibit people under 18 years of age to place bets, so as to reduce the chances of young people engaging directly in gambling. It has also taken on board our views and agreed to limit publicity by extending the family viewing hours from 8.30 pm to 10.30 pm in order to reduce the exposure of young people to this kind of information.

In addition, Madam Deputy, on more than one occasion, I have made a strong call in the Bills Committee to defer the effective date of the legislation until after counselling and therapy services have been launched. Although the Government has adopted most of my suggestions, it has not adopted this one. I hope that when Members cast their votes later, they can consider this suggestion seriously. Although there is no 100% causal relation between football betting and pathological gambling — and I stress that I am talking about a 100% causal relation — from the viewpoint of policy consistency, it is necessary to follow the sequence of providing services first, then offer this form of betting and take bets later. Therefore, I will propose a Committee stage amendment later to specify 1 January 2004 as the effective date of the legislation.

On the other hand, I am also concerned about whether the composition and operation of the Commission is sufficiently independent to offer objective analyses and assessments to the Secretary for Home Affairs. In order to avoid rendering the Commission a window-dressing body, I hope the chairperson of the Commission must not be a public officer. In addition, of the eight non-official members, three of them should come from the religious, education and social service sectors. When their posts become vacant, replacements should be appointed within three months. The Government has also taken the initiative to propose a statutory quorum for meetings, as well as adopting the suggestion that the Commission can deal with its business by way of circulation of papers only when the chairperson has reasonable grounds to believe that it is impracticable to convene a meeting. I will support the various amendments proposed by Mr Andrew CHENG later. I believe the smooth operation of the Commission can allay in some measure the concerns of opposition groups and reduce tensions in society.

Finally, Madam Deputy, I have to express my thanks and appreciation to the Deputy Secretary for Home Affairs in charge of this Bill, Mr Stephen FISHER, because during its scrutiny, Mr FISHER has listened very patiently to the views of various groups and responded to Members' queries in true faith. Circumstances permitting, he would heed good advice and take on board Members' amendments, be they coming from parties opposed to or in support of the Government. In the whole process of scrutiny, Mr FISHER has indeed demonstrated the level-headed and pragmatic attitude exemplary of civil servants.

Summing up this experience, I feel that Members and the Government can indeed hold different positions, but this should not prevent them from engaging in rational discussions and exchanges. In fact, many differences can be resolved through discussions and common grounds can be sought and differences put aside. However, I feel most sorry that this excellent spirit of co-operation displayed in this particular Bills Committee cannot be found on many other occasions. Madam Deputy, although you also work very efficiently and can chair many meetings within a short time, you would still let us finish our speeches. I find this a very good thing. However, in the process of legislating for Article 23 of the Basic Law, the behaviour displayed by officials was that they were totally at loggerheads with dissenting views and were engaging in a

life-and-death struggle, eventually precipitating in the crisis in these days. I hope the SAR Government can learn a lesson from this and co-operate with the Legislative Council sincerely.

Madam Deputy, I so submit.

**MS AUDREY EU** (in Cantonese): Madam Deputy, since this Bill is related to the Hong Kong Jockey Club (HKJC), I wish to make a declaration here first. My husband is a voting member and stipendiary steward of the HKJC. However, over this issue, he did not, nor can he influence the position that I will take in voting.

The issue of legalizing football betting has triggered a great controversy in society. I found that the decision on how to vote was the most difficult one I had to make ever since I became a Member of the Legislative Council. Since the arguments of the two sides for and against the issue are both convincing, I at one point considered abstaining from voting. However, since this issue is highly controversial, I do not wish people to mistake me as a fence sitter, so I can only choose between the two sides, for or against.

First, I wish to declare that revenue is not my prime consideration, nor do I consider the authorization of football betting to be the most effective means of combating illegal football betting. I do not have any particularly strong views on gambling. I believe that whether or not to gamble or how far should one engage in gambling are personal choices and the law should not be used to regulate moral or personal decisions. It should only prescribe basic limitations. At the same time, I also believe that people should take responsibility for themselves and their families and they should not rely on the Government or the law to prescribe norms.

However, I also note that many members of the public, in particular some members of the religious and education sectors, as well as front-line social workers, are staunchly opposed to the legalization of football betting. They are concerned that this will fuel a gambling trend and foster more pathological gamblers. I personally have also received many letters, faxes and e-mails from members of the public expressing similar calls. Some of them even made it clear that if I do not oppose the Bill, they will not vote for me in future elections.



I have to apologize here for disappointing them this time. Those opponents of football betting are also worried that legalization will induce many young people to take part in gambling. Indeed, soccer is different from horse racing. Many young people take part in the former. I understand the concerns of the public, however, most people in Hong Kong adopt the attitude that gambling will add spice to their lives or consider gambling to be a type of entertainment when they engage in gambling. According to a survey conducted by The Hong Kong Polytechnic University in 2001, among the age group between 15 and 64 in the population, about 1.85% are classified as "probable pathological gamblers" who will eventually become incorrigible gamblers. In fact, on the whole this accounts for only a minority public.

The Social Sciences Research Centre of the University of Hong Kong conducted a survey in March this year and found that three quarters of the public were in favour of the authorization of football betting. The figures provided by the Government also indicate that in recent years, the number of people taking part in illegal football betting has been on the rise, going up from 2.4% to 7.5%. This reflects that public opinion generally accepts football betting and a certain demand for such does exist.

If we want to really help young people, the most effective method is not prohibition but teaching them how to exercise self-discipline. Otherwise, even if football betting is not conducted or not allowed, they will still gamble on the Mark Six, bet on horse races, play mahjong or even place bets on offshore football betting. Apart from education in schools, family education is just as important. Therefore, the Government should deploy resources to strengthen education and publicity pinpointing parents and encourage them to become responsible parents and role models for their children. Of course, I am also very concerned about whether the Government has put in place appropriate complementary measures, therefore, I will support the amendment proposed by Ms Cyd HO, which requires that the legislation can come into effect only when counselling services are ready.

Finally, I hope the Government and the public will understand that even if the Bill is passed, it does not mean that the Legislative Council will not continue to monitor the implementation of football betting by the Government and the HKJC. I also hope that those people who are opposed to football betting will continue to monitor the Government and assist those in need.

With these remarks, Madam Deputy, I support the resumption of the Second Reading.

**MR NG LEUNG-SING** (in Cantonese): Madam Deputy, I have always believed that, to address the illegal football betting problem that has long existed in Hong Kong society, a pragmatic approach is to strengthen law enforcement to combat related illegal activities, while bringing football betting into authorized management. In doing so, a proper and legal outlet can be provided to give members of the public — at least some of them — choices and freedoms relevant to their lifestyles. Policy-wise, Hong Kong has never been a fundamentalist community in which outdated rules and conventions are rigidly followed. Under Chinese and Western influence, the people of Hong Kong uphold the freedom to choose individual lifestyles without infringing upon the freedom of others, instead of moralizing their ways of life. The Government's public policy does not seek to encourage gambling. Yet, for a long time, there has not been a complete ban on gambling. As in many other regions, the objective and genuine need for gambling activities in society is addressed in Hong Kong through lawful outlets. If regulation of football betting by legislation is opposed on moral grounds, then the existing lawful betting activities or a number of other activities involving moral issues should similarly not be allowed to exist.

For the purpose of determining whether adding football to the authorization regime will aggravate the gambling trend in society, perfectly convincing justifications are required. This is because illegal football betting activities do, in reality, exist in Hong Kong and are becoming increasingly rampant too. As such, the football-related gambling trend does not emerge only today. Despite long-standing enforcement actions, the situation is worsening. Even with more stringent enforcement, the community can still not be convinced that the present situation can be turned around in a fundamental manner. As such, there is at least no evidence to show that the severity of the gambling trend can be traced back to a regulatory system on football betting that is still not implemented.

Of course, some people will ask this question: Should a lawful outlet be provided under the legislation, will some of those who used not to gamble because football betting was considered unlawful change their minds and take part in football betting because it is now lawful? People citing this as a factor leading to the aggravated gambling trend are indeed making a considerably vague

judgement. It does not make much sense if the size of the gambling population is used solely for judging the severity of the gambling trend. To illustrate the point, if the gambling population in one community accounts for 50% of the whole population and yet no gamblers show any signs of compulsive gambling and, in another community, the entire gambling population, though accounting for a very small percentage at only 10%, is pathological gamblers, then two different conclusions can be drawn by comparing the two communities in terms of the severity of their gambling trend.

Insofar as the Hong Kong community is concerned, the crux of the problem still hinges on whether the compulsive gambling phenomenon and problems related to the participation of young people in gambling will become more serious as a result of the authorization of football betting. As mentioned just now, we have every reason to believe that those who refuse illegal gambling but prefer taking part in lawful gambling are more rational and will not easily indulge in gambling. Besides, the Bill has made proper arrangements to prevent young people from placing bets to provide against adverse impact on people who are not yet mentally mature. Naturally, it may not be entirely possible to rule out the continued existence of problems originally existing in the illegal outlets. At least, authorization of football betting can provide a lawful outlet for substitution and diversion. Community assistance can also be provided more easily to resolve associated problems through a lawful outlet.

Furthermore, a two-pronged approach can be adopted to curb illegal operations by strengthening law enforcement against illegal football betting on the one hand, and partially diverting and cutting off the source of clients for illegal football betting syndicates on the other. This will serve as an enhanced means to combat illegal football betting syndicates in a positive manner. More importantly, some of the bets placed used to become resources for illegal syndicates or leave Hong Kong for overseas countries. After the authorization of football betting, however, they will be used as resources by the local community in resource intensive public policy areas for such purposes as developing the football sport, and so on, in addition to resolving social problems arising from gambling. As such, I personally consider the enactment of legislation to authorize football betting is pragmatic in the sense that this can help resolve gambling-related social problems by choosing the lesser of two evils. At the same time, I believe the government's work should keep abreast of the times, not out of step with the actual conditions of the community. As such, I propose that the Government should, after enacting this piece of legislation,

constantly review the changes and developments of the gambling problems confronting Hong Kong society and, in the light of the actual livelihood of the people in the community, make corresponding policy adjustments in the interest of the long-term development of the community as a whole.

With these remarks, Madam Deputy, I support the Bill.

**MR ALBERT CHAN** (in Cantonese): Madam Deputy, I rise to speak against the Second Reading of the Betting Duty (Amendment) Bill 2003.

Insofar as my personal stance is concerned, I have been rather undecided in the past few months. I have a number of friends who play football with me, whom I call my "football mates". Many of them support the legalization of football betting, and many of them have also taken part in illegal football betting before. If the Bill is voted down, it is possible that they will still engage in illegal football betting in future.

The grounds for supporting football betting are many and the Government has also made a lot of explanations. However, the opposition camp has also many convincing arguments. I have also basically been swayed by the e-mails and lobbying from the Great Coalition to Oppose Legalization of Soccer Betting and from many religious groups, therefore, I finally decided that I have to oppose this Bill.

Here I wish to commend the Great Coalition to Oppose Legalization of Soccer Betting and many religious groups for the efforts they have made in the past months, and I also wish to take this opportunity to praise the officials concerned, for example, the Deputy Secretary, Mr Stephen FISHER. Although I am not a member of this Bills Committee, he also lobbied me powerfully a number of times and he nearly swayed my decision — however, he failed narrowly, just by a slight margin.

The major argument for the legalization of football betting is that the Government's revenue from tax can increase by some \$1 billion to \$2 billion a year. On hearing this justification, I was very much saddened. In the short span of six years, our society and the economy have gone downstream and become very much different from what they once were. Before 1997, the Government would not care in the least about \$1 billion to \$2 billion.

Moreover, we still have a surplus of more than \$300 billion. In the past, that is, before 1997, it was only necessary to sell a piece of land or for the stock market to go a little bullish for to fetch the Government \$1 billion or \$2 billion in a blink. Nowadays, for the sake of \$1 billion or \$2 billion, the Government has become so degenerated as to defy many moral persuasions, turn a deaf ear to the views of religious and education groups and bend on legalizing many activities that many groups consider anathema.

If the fiscal situation is one major argument for legalizing certain activities and if the Chief Executive, Ah Tung, and the Financial Secretary, Ah Chung, continue squandering our existing surplus of some \$300 billion until not much is left, I wonder if the Government will legalize prostitution, narcotic drugs or even the sale of firearms on fiscal grounds.

I do not wish to take on the stances on football betting or the relevant arguments point by point now. However, I wish to point out that basically, I have strong views on the position taken by the ruling coalition in respect of the Bill. The ruling coalition, as its name implies, should steadfastly assist the Government in promoting relevant bills and policies according to the stances adopted by the Executive Council and the Government. However, the behaviour of the ruling coalition, in particular that of the DAB, is rather bizarre. Here I wish to commend Mr James TIEN. He knew that the Liberal Party had some different views on the legislation to implement Article 23 of the Basic Law (Article 23). Although he is the Party Chairman, he had to follow the decision taken by government leaders. Therefore, he would rather adopt a stance consistent with that of the Liberal Party, even if that meant resigning from his office as Member of the Executive Council. This is the broadness of mind and integrity that political leaders should demonstrate.

However, concerning the stance of the DAB on this Bill relating to football betting, its Chairman voted for it in his capacity as a Member of the Executive Council, whereas other Members from the DAB turned against their Chairman and voted against it. If Mr Jasper TSANG still has a modicum of dignity, he should resign from his office as Member of the Executive Council and vote according to his party's stance, as did Mr James TIEN. However, his present approach renders his party a laughing stock, making it neither fish nor fowl. In the legislature, he claims to be the Chairman of the DAB, however, the other five or six Members from the DAB do not follow the position adopted by him as the Chairman. I do not know what sort of party such a party is, nor do I know

what sort of political leader such a political leader is. Therefore, here I appeal to Mr Jasper TSANG: Later, if you come back to cast your vote, I hope you will vote like other Members of the DAB and then resign from your office as Member of the Executive Council. In this way, you can still preserve a measure of dignity for yourself, and at the same time, you can also answer the voters who voted for the DAB in the past.

Madam Deputy, I hold TUNG Chee-hwa very much in pity. In Cantonese, there is a saying that says, "A big tree affords a good shade". When the Chief Executive has power and authority, that is, when he had favours to give away, a lot of people were willing to join the ruling coalition. However, there is also another saying in Cantonese that says, "when a tree falls, the monkeys will flee". When the authority of the Government is declining, the ruling coalition begins to fall asunder. This is the case in their positions on Article 23 and this is also the case in their positions on legalizing football betting. The people in the ruling coalition, to put it simply, do not have any camaraderie or bonds. If they claim themselves to be part of the ruling coalition, when the "big boss" has decided on something — Madam Deputy, I had better not be so vulgar, otherwise the President will say that we have used language that is too vulgar in this Chamber — in short, when the leader has decided on something, they should follow the position taken by the political leader. If the people in the ruling coalition still consider the Chief Executive to be the political leader of the ruling coalition, then they should follow all the decisions made by him.

However, the reality we now see is aptly the opposite. The ruling coalition has now fallen apart, that is, "when a tree falls, the monkeys will flee". This precisely and fully reflects the political reality in Hong Kong, in particular, the total lack of bonds and the cold-heartedness of the opportunists in the so-called ruling coalition when it comes to matters of political relations, political stances and political decisions. Therefore, I really sympathize with the Chief Executive. I am steadfast in toppling TUNG Chee-hwa and never have had any favours from him. However, it was TUNG Chee-hwa who made the final decision to appoint people from the ruling coalition as members of the District Councils and that is why there are so many appointed members from the DAB in the District Councils. Furthermore, it was also TUNG Chee-hwa who decided to appoint these people to many of the consultative or statutory bodies. In other words, when there are benefits, these people would say that they belong to the ruling coalition, but when there is any controversy, or when their votes are at stake, they will completely forsake their political and ethical obligations to the

ruling coalition. Concerning the position of the ruling coalition on Article 23, the development in the ruling coalition after the resignation of Mr James TIEN is that.....

**DEPUTY PRESIDENT** (in Cantonese): Mr CHAN, I have to remind you that we are now debating the Second Reading of the Betting Duty (Amendment) Bill 2003 and your speech has digressed very far from it. Please speak to the question on the Bill.

**MR ALBERT CHAN** (in Cantonese): Madam Deputy, in saying that much, my aim is to call on Members in support of the Bill to vote against it later on.

**DEPUTY PRESIDENT** (in Cantonese): Mr CHAN, then please return to the question after you have made your call. *(Laughter)*

**MR ALBERT CHAN** (in Cantonese): Madam Deputy, I have now made my call. *(Laughter)* One last point I wish to raise has to do with the Government's rule. From a series of incidents, including the legislation on Article 23, the Second Reading of this Bill and the behaviour of many Members, it can be seen that the legitimacy of the Government is now totally non-existent. No matter whether this Bill is passed today or not, I think I can say that if officials of the Home Affairs Bureau fail, it is not because they have not fought hard enough. They have exerted their utmost and their performance has been outstanding. I hope the Secretary will be proud of the performance of his colleagues, which is distinct from that of those officials lobbying for the legislation on Article 23.

Madam Deputy, I have spoken against the Second Reading of the Bill. Thank you.

**MR WONG SING-CHI** (in Cantonese): Madam Deputy, I have worked as a social worker for more than 20 years, and I have also taken part in the treatment of drug addiction. In fact, in overseas therapeutic treatment services, gambling is often given the same weight as that for drug addiction and alcoholism, and the

same set of procedures is adopted to help pathological gamblers or drug addicts or even alcoholics to kick their habits.

In the course of my work, I find that the conditions of drug addicts are actually similar to those of gamblers or pathological gamblers. Initially, they never feel that they will end up as pathological gamblers or drug addicts. Every one of them will invariably say that trying it once will do no harm and will not result in addiction, and that one will not die by consuming just a bit of it or one will not become bankrupt by gambling just once. But from our contact with users of our services, we find that they do feel regret. They told us that they regretted not listening to the advice of other people or trying drugs, drinking liquors or even taking part in gambling without careful consideration.

Of course, I am not saying that all the people who have tried gambling will end up as pathological gamblers. But it is true that many have become pathological gamblers due to a lack of awareness or because they gained some return in the first attempts and won in a bet or won some money. It is a psychological reflex for a gambler who wins some money to continue gambling. According to what we have learned in school, this is referred to as "conditional learning" in behaviourism. That is, if we engage in certain behaviour and if we in turn get positive rewards, we will continue to engage in such behaviour. If such behaviour is cumulative and keeps yielding rewards, or if one sometimes gets rewards but sometimes not, the effect of conditional learning on behaviour will be even greater.

Why do pathological gamblers become pathological gamblers? It started like this. At first, a person may only place a \$2 bet — it takes more than \$2 for a bet now; and I do not know how much it is for a Mark Six ticket — and he may have won a Mark Six Lottery with a bet of several dollars. Then he may think that buying Mark Six tickets this way is not getting him anywhere and may, therefore, turn to other forms of gambling.

The second problem is that many people, particularly youngsters, will unlikely take part in gambling so easily if they have not been taught to gamble or if they have no opportunity to come into contact with it. I find that many youngsters, even including those under 18 years of age, have the habit of gambling on horse races. I wonder if the Secretary, or you, Madam Deputy, or Honourable Members are aware that if youngsters aged below 18 in secondary



schools are asked whether they have gambled on horse races before, many will reply in the affirmative. Why can youngsters aged below 18 gamble on horse races? This is not possible in principle. But in reality, they can gamble on horse races and I do not know how they can do so. But some youngsters can walk into the HKJC centres openly to place bets on horse races. Certainly, they have different channels to do so, and I have some reference materials to share with Members later on. I will share them with Members at the Committee stage later.

On the problem of youngsters taking part in gambling, if they are not taught to do so or if gambling is a difficult process *per se*, many youngsters may not be able to take part in gambling activities so easily, or they may not become pathological gamblers so easily. However, given the opportunity and if such opportunity is given to them very easily, or if people around them can easily take part in gambling, say, if a youngster sees that his father, family members and even adult friends or schoolmates who have just turned 18 can easily take part in gambling, then he will likely be influenced and join these people in gambling.

I like to watch football matches, but I am not a maniac as I watch football matches only when I have the chance to. My son also likes to watch football matches. Of course, I do not wish that my son becomes one of the football gamblers. But up till now, I still do not know how I can take part in illegal football betting. Nor do I know how I can have access to illegal football betting. So, if youngsters are simply not exposed to channels of illegal football betting or if they do not have friends who have ready access to illegal football betting, it will not be easy for them to access illegal football betting. I cannot access it even though I wish to. I really have no idea where I can place a bet. Of course, I do not wish to gamble. I only wish to know more about it. But I do not know how I can access it, because access is not that easy after all.

So, that is the present situation, and after football betting is authorized, there will be a betting outlet nearby in each district. Like the advertisement on the 7-11 convenience stores, "there will definitely be one around". Such being the case, friends of youngsters or families of youngsters can take part in gambling conveniently. As a result, youngsters are likely to be influenced to take part in gambling because it is very easy for them to do so as they can place bets on football matches by visiting a betting outlet next door. This will indeed increase the chances of these youngsters taking part in gambling or getting to

know the access to gambling since this will broaden their exposure to gambling. Consequently, youngsters will very likely learn from their adult friends what gambling is all about or how to bet on football matches, and they will then find opportunities of access to football betting.

Certainly, some people may say that the same goes to the case of betting on horse races. From our analysis, however, youngsters do not quite like watching horse races. They find horse racing boring, because there are only a dozen or so horses taking part in each race and the horses, though bearing a different number, look alike and so, they do not find any interest in it. But football matches are different. Everyone likes watching football matches. So, youngsters who like football will easily have the opportunity to take part in football betting. Though they have taken part in football betting activities, their chances of becoming pathological gamblers may still be reduced if they are given proper guidance or assistance. Otherwise, after youngsters have gambled for the first time, that will very likely become the portal of them becoming pathological gamblers. I do not wish to see youngsters become pathological gamblers in the future because, as we can see, pathological gambling will plague society. Not only will it cause troubles to society as a whole, it will also cause troubles to pathological gamblers themselves and their families. This is the last thing that I wish to see.

Nevertheless, the problem is that if, by way of authorization, football betting is made easily accessible by many different people in each and every district widely across the territory, more easily seen by children, and more easily accessible by friends of children, I can tell Members that we are precisely putting these young people on the trigger of pathological gambling, exposing them to risks. I urge Members who disagree with me consider the matter from this perspective. Why do we, at this point in time, have to put youngsters in such a position, exposing them to risks and giving them the opportunity to cross the threshold to pathological gambling?

Well, Members may contend that this will mean putting it on hold for good. Certainly, it could not be better if the proposal was dropped indefinitely. I do not consider its implementation worthwhile in any case. But it appears to be unrealistic to say this. Will this have to be shelved for good? I have not suggested shelving it for good. But the point is I do not consider it the right time to do so. Why?

Pathological gambling has actually brought many problems to Hong Kong, condemning many families to great sufferings and breaking up many families. But who have ever addressed these problems? Who have ever offered help to people bogged down in pathological gambling? Who have ever helped these families? All the services provided before are conventional services. There have never been services that are more extensive, thorough or effective to provide suitable assistance for pathological gamblers or their families. Even research studies in this respect are few so far, let alone the provision of services. At a time when nothing has been done, when nothing has been provided and even when studies have not been properly conducted, is it right for the Government to put youngsters at such perils? Will we achieve good results? Should we, being parents of youngsters and members of the community, and seeing so many youngsters being endangered, still cling to such a decision?

At the Bills Committee, I asked the Permanent Secretary and the Government whether studies had been conducted. The reply given to me was that studies were underway. Then are there any findings? Of course, there are no findings. How can the Government prove that it can provide services if problems do emerge in the future? The Government only told us that there would be money to address this by then. But would the services be effective? Could they resolve the problems? The Government had not addressed these points. But under such circumstances, we are required to make a decision on the authorization of football betting. Is this not somewhat hasty? Is this not somewhat reckless?

I do not know how effective these services could be in the future, but I am sure that they can never be very effective. We can all see that the problem of drug addiction has been with us for many years. Much money has been injected into tackling it, but how effective have been the services? Many people are still on the brink of drug addiction and some have even taken drugs for years. The problem has remained unresolved.

Moreover, the Government said that through many channels, youngsters are deterred from taking part in authorized football betting. I would like to ask Members, "Have they seen youngsters below 15 smoking?" The answer must be "yes", and they must have seen it many times. The Government prohibits the sale of cigarettes to them, but they can still get cigarettes to smoke. Not only can they get cigarettes to smoke, they even carry a packet of cigarettes here and another packet there on the bodies. Why? Not that we have taken no

regulatory actions and set no restrictions. But it is still useless even though we have taken those actions, because there are still many loopholes. In this Bill, and we will also come to this point in our discussion later, it is proposed that giving betting tickets to youngsters as gifts will not constitute an offence and there is no problem with this. This is a loophole. I would like to further discuss this with Members at the Committee stage later.

Other than smoking, I also mentioned that many youngsters have gambled on horse races, whether with the HKJC or illegal bookmakers. So, authorization cannot in the least resolve the problem of youngsters taking part in illegal betting activities or even in authorized betting activities. For this reason, I hope the Government can provide us with more information on this, and I would like the Government to clearly tell us whether it has the confidence that it can help youngsters if they, after the authorization of football betting, engage in pathological gambling and even become pathological gamblers. I think the Government will not be able to help them because, obviously, the very serious problem of drug addiction, like the problem of gambling, has remained unresolved.

So, under such circumstances, why do Members still support this Bill proposed by the Government to authorize football betting, which will put football betting at the side of every youngster and serve as a channel for them to take part in or acquire knowledge of gambling? So, I hope Members who take exception to my views will think about this carefully. Our future generation faces an imminent danger. If we still pass this Bill, I do not know how we can bear this responsibility. Thank you, Madam Deputy.

**MR FREDERICK FUNG** (in Cantonese): Madam Deputy, some Members who support the Betting Duty (Amendment) Bill 2003 (the Bill) said that the arguments against the Bill have to do with moral issues. Since gambling involves moral issues and moral issues involve personal preferences, therefore support for or opposition to the Bill should not be founded on such grounds. Rather, it should be up to individuals to decide whether or not to bet on soccer. Such a statement is perhaps attributable to the fact that most of the people who oppose the legalization of football betting are teachers, social workers or even people of the Church. Madam Deputy, I believe many Honourable colleagues must have also received the advice tendered by Rev LUK Hang-chuen, President of the Baptist Convention of Hong Kong. The advice that he gave Members

consists of only two lines. One of them is: "Curbing gambling with gambling will only fuel gambling" and the other is: "Bringing ruin on oneself and others and passing the bane to posterity". We can see that Rev LUK has not done any preaching to us, nor has he moralized the issue. He has only spelt out the bane that gambling causes to man. In my speech, I will also simply quote some figures and draw on the social phenomena arisen in some countries after the legalization of football betting as evidence to tell the Government and Members who support the Bill how curbing gambling with gambling will only fuel gambling, and how legalizing football betting will ruin oneself and others and pass the bane to posterity.

I will also speak on behalf of the Hong Kong Association for Democracy and People's Livelihood (ADPL) against the resumption of the Second Reading of the Bill.

The Government issued the Gambling Review : A Consultation Paper in June 2001, in which it was stated from the outset that the main reason for reviewing the policy on gambling is to pinpoint increasingly popular football betting activities. A considerable number of pages was expended on the counter-measures to solve the problem and a strong intention of the authorities to supervise and authorize this kind of activities was expressed. Eventually, the Executive Council also agreed to, as expected, authorize football betting in November last year, thus setting the tone for what is commonly called the legalization of football betting, by citing a clamp-down on illegal football betting as the main justification for legalization.

In fact, although the reasons cited by the Government in support of the launch of legal football betting seem to be fully justified, if we analyse them carefully and take them apart, we will find that all along, there is just one factor in the Government's consideration, and that is, the annual duty revenue of about \$1 billion. This blatant preoccupation with economic benefits in policy formulation will not only damage the very nature and intrinsic value of the football sport, in the long run, it will also fuel the gambling problem and substantially increase social costs. In the end, the losses will outweigh the gains, just as the saying goes, "going for wool and come home shorn".

In lobbying for the legalization of football gambling, the principal argument frequently cited by the Government is the prevailing severity of the problem of illegal football betting. Therefore, the authorities have the duty to

provide an approved and regulated channel of gambling to members of the public who want to place bets, that is, to curb gambling with gambling. The outcome envisaged by the Government is that members of the public who are taking part in illegal football betting will be brought back to the fold of the HKJC, which will offer this type of betting. At the same time, the billions of dollars placed in illegal football bets will also be diverted to the government coffers. Under the present circumstances of a serious fiscal deficit, this is a means for the Government to make money. However, both the ADPL and I have doubts about this. We consider the Government's justification is fraught with flaws and cannot hold.

First, according to the outcomes of empirical research conducted by academics, there are already many overseas examples of failure in curbing gambling with gambling. In fact, there are very few examples of success. In Australia, one academic study estimated that for many years, the amount involved in illegal betting accounted for 25% of the total amount of wager placed nationwide. It was projected that up to 2010, the amount will increase proportionately. However, it must be borne in mind that this figure of 25% refers only to the proportion of the wager involved in illegal gambling, in other words, the total amount of bets placed will also be increasing proportionately. On the other hand, in Asia, experts believe that two of the three main sources of illegal offshore bets are Japan and China, however, ironically, legal channels for football betting also exist in these two countries. In other words, not only has legal football betting failed to achieve the aim of clamping down on illegal bookmakers, on the contrary, it unleashed the potential participants in football betting and the revenue from it, serving only to boost the profitability of football betting, creating a situation in which the Government and illegal bookmakers make money together.

In addition, in recent years, with the increased penetration of the Internet, gambling activities on the Internet have developed very quickly. Such a situation should not be overlooked, particularly because transnational illegal bookmakers can take advantage of various legal loopholes and grey areas to continue to swarm to the Asian market, which offers enormous potentials. According to another experience in Australia, the ADPL and I are also concerned about the effectiveness of relying solely on a limited number of authorized betting channels to combat illegal bookmakers. After legalizing gambling on the Internet, even though it has on the whole enabled the Australian

Government to receive more revenue from tax, various state governments are also caught in a bitterly fight with each other over economic benefits. In the end, every state government, in order to get a slice of the cake, issued an increasing number of licences on increasingly lax conditions and lower rates of duty. The relevance to curbing gambling with gambling has lost long ago. The Chinese and Japanese Governments are also facing similar problems. According to the figures in 2000, apart from the 22 bookmakers on the Internet licensed by different state governments, there were also more than 200 gambling companies operating over 700 unauthorized gambling websites. In addition, the diverse types of jackpots offered by illegal bookmakers were far more attractive than those offered by the approved gambling channels set up by the Government and discounts, concessions and credit lines were often offered by illegal bookmakers. It was totally impossible for the authorities to compete. Therefore, curbing gambling with gambling eventually ended in failure.

Another reason that the ADPL and I oppose legalizing football betting is that the number of pathological gamblers will increase substantially. According to a research conducted by The Hong Kong Polytechnic University, should the legalization of football betting be implemented in Hong Kong, the number of gamblers will increase drastically by 14 folds, from 80 000 people at present to 1.12 million people. Of these people, about 100 000 people will be pathological gamblers. A study carried out by the University of Illinois pointed out that the Government had to spend about \$100,000 each year to provide therapy to each pathological gambler. If we really have to provide therapy to these 100 000 pathological gamblers, then \$100,000 has to be spent on each person to provide therapy to these 100 000 pathological gamblers. That is to say, \$10 billion is required to tackle the problem of pathological gambling, which is far more than the estimated revenue of \$1 billion. This also shows that it is futile for the HKJC to establish a special fund amounting to tens of millions to tackle the pathological gambling problem. This is merely a window-dressing exercise in response to queries. However, this measure will only invite laughter from informed critiques. Pathological gambling does not merely affect individuals but also their families and our social capital, leading to irreparable and incalculable losses. Many research found that pathological gambling will make the public, in particular young people, develop an aberration towards law and order, for example, a mentality of fraud and deception. The suicide rate of pathological gamblers is also higher compared to that of normal people. Another empirical study in the United States pointed out that the social cost

incurred by every avid gambler is as high as \$120,000 to \$240,000 each year. This has only taken into account the productivity lost as a result of their indulgence in gambling and the cost of regulation, and arresting and prosecuting people who broke the law as a result of gambling. Some insurance companies also estimated that every year, cases of insurance fraud due to avid gambling involved over \$1 million. A relevant study in Australia found that in 1999, the gambling industry in the country yielded US\$3.2 billion in economic benefits but at the same time, US\$2.9 billion was spent to address the social problems caused by gambling. It can thus be seen that pathological gambling has caused tremendous real and intangible losses to the economy. Is the Government aware of this?

Some people hold the view that pathological gambling is only a personal abnormality which in fact will not impede overall social development. Moreover, legalizing football betting will also create employment opportunities. Recently, the Government has also used this argument to persuade us to vote for the Bill. The ADPL and I believe that this is only wishful thinking oblivious to the reality. A number of studies overseas find that the provision of gambling channels by the Government will lead to extensive and structural social problems and changes. A study in Australia found that gamblers mainly came from the lower and middle classes and they were for example low-income earners, elderly persons and people on social welfare. Gambling expenses took up a comparatively high proportion of their family income. Since the 1970s, the number of gamblers has increased two fold. These people even tried to save money for gambling by reducing their expenses on education and health care. Furthermore, a study in North America pointed out that the relaxation of restrictions on gambling directly led to a decline in entertainment industries such as the film industry and theme parks, and even led to a rise of at least 3% in crime rate. Besides, after the tax revenue had increased, the governments did not increase their investments in areas relating to the people's livelihood, such as education and health care. The experience in Canada also revealed that the expenses on gambling in grass-roots families were four times that of the upper and middle classes. On the other hand, many state governments offered tax reductions or at least tax breaks to the upper and middle classes. It can be seen from this that legalized football betting will only become a quasi-tax on the poor. The lower the income of a person, the more bets he will place and the stakes will be higher and higher. Eventually, he will be paying more to the Government in a quasi type of tax.



In conclusion, the Government should not set its eyes on only a mere \$1 billion or so of revenue from legalized football betting and turn a blind eye to the tremendous personal and social problems. It is unwise not to see the wood for the trees. Moreover, I am afraid that the so-called dedicated fund to provide therapy for pathological gamblers as proposed by the Government will only be a hollow gesture, because illegal football betting and legalized football betting are different in form though, they will both bring about the same outcomes and trigger a serious problem of pathological gambling. This will in fact be a change in form but not substance. The ADPL and I wish to point out that all gambling activities are "zero-sum games" and for the society as a whole, it is only a sleight of hand in which the money earned is spent straightaway. They do not increase productivity or yield actual benefits for the economy. On the contrary, they will trigger a series of personal and social problems, consuming our social capital for naught. It is worthwhile for the Government and Members in support of legalizing football betting to think twice about this.

With these remarks, Madam Deputy, I oppose the legalization of football betting and the resumption of the Second Reading of the Bill.

**MR MICHAEL MAK** (in Cantonese): Madam Deputy, I am sorry to say that I feel guilty as I face you or the Secretary. Why? It is because I think that I have made an "about-turn". Initially, I supported the authorization of football betting, but I can tell Members now that I had made an unwise decision or a decision not supported by sufficient justifications too early.

It was unwise perhaps because I had not conducted an in-depth analysis on the issue. But then, I had listened to the views of 80-odd organizations and individuals. Their views had completely "rescued" me from a relatively distressed frame of mind or position. My feeling was like sailing in the high seas without a helmsman but suddenly managed to recover what I had previously lost in finding a very good helmsman.

It was short of justifications because I had only sent out the questionnaires but forgotten that the response rate was relatively low. I do not know why the response rate was low, but it was low as I had received only 300 to 400 responses. I wonder if it was because the facsimile machine was not functioning properly, for my questionnaire surveys usually have a response rate of at least over 1 000 responses. The views of respondents had actually split equally this time but

were more inclined to supporting authorization. I have also mentioned this inclination to the Secretary or the persons concerned, and we are talking about a proportion of some 50% in favour of authorization against some 40% in opposition. So, I reflected this view plus my personal stance to reporters, the media or the persons concerned at that time. As I said earlier, I had been unwise at that time, or there was not sufficient information for my consideration.

At first, there were people who agreed with the view of the Secretary or the persons concerned that revenue was the only consideration — sorry, Secretary, but that was at least a view held by me. Perhaps I should make a declaration (not of my interest but on my behaviour). I must make a declaration on my gambling behaviour or behaviour relating to this issue. I am not a gambler surely. Nor am I a pathological gambler. I do not even know how to bet on horse races. I only know how to play mahjong and I play with small stakes. I play mahjong absolutely as a kind of entertainment only, and I play with a base set of stakes worth \$100 only. I wonder if Members know what is a base set of stakes worth \$100. I feel quite embarrassed as I mention this, for I think that gambling is "primarily evil" and "secondarily devil". I do not know how to explain in Chinese the meaning of "secondarily devil". Perhaps it should broadly be rendered as "魔鬼" (meaning devilish). So, I think football betting is in great conflict with my moral values.

I feel strange about the performance of some organizations. I do not understand why among the nearly 100 organizations that had come to this Council — in my impression I was absent only on one day, and Madam Deputy, perhaps you may remember this too, and I have also confirmed this from looking up the relevant papers — all were against football betting. I think this is a very interesting social phenomenon. If there were people who supported football betting, why did they not come to us to give their views? Why did they not come forward and tell us the merits of authorizing football betting, but doing nothing seeing those 80-odd organizations and individuals coming to us? I mean if they supported football betting, why did they let those people opposing football betting come to us to pull the wool over our eyes? This can never be convincing in terms of sense, or considering the fact that they had been given access to open and fair consultations.

This shows that supporters of authorization of football betting dare not come forth to state their stance. This proves that they lack justifications. I had many justifications. I had conducted many surveys and so, I had many

supporting arguments. The main argument was that legalizing football betting could increase tax revenue. It could be considered as a means to ameliorate the problem of illegal football betting, and it could be said that there was such demand among the public. But if it is said that legalizing football betting is only meant to ameliorate the problem of illegal football betting, then I would consider it absolutely necessary to seek the assistance of the police.

Insofar as horse racing is concerned, and as far as I know, illegal bookmaking activities still exist. Despite police raids on these activities over the years, we can still hear or see on the television or in the media from time to time successful police raids on illegal betting on horse races. It is entirely necessary to enhance the strength of the police. Such activities can be reduced to a minimum through the collection of intelligence. Although the Internet is quite useful in many areas, as the saying goes, "while the law is strong, the outlaw is 10-times stronger". I cannot help asking, "Why can we not be stronger?" I said just now that this is "devilish". Why should we let the "devil" dominate us? Why should we be led by the "devil"? Therefore, I think the police should increase its strength in combating these activities, so that the triad elements or money launders would be driven to the wall.

Moreover, I did mention my theory many times in the Bills Committee. I may sometimes come into contact with pathological gamblers as I am a psychiatric nurse and I have had the chance to come into contact with them, but they are not large in number. So, while this may not serve as the basis for a well-justified analysis, I have drawn a theory. My theory is that the authorization of football betting or otherwise will not be a cause for the problem of pathological gamblers. Whether or not there is authorized football betting will not lead to this phenomenon. Why? It is because the causes of pathological gamblers are not as simple as such. This anomaly is formed due to personal or many other reasons, such as genetic factors, basic education (not going so far as to mean social training), family education, social training and operations against the relevant offences. Will vigorous and resolute actions against these activities drive gamblers to the wall and hence deter them from gambling? No, this is not going to happen. Let me tell Members this. Death penalty is enforced in the Mainland, but we can still see a lot of crimes happening in the Mainland. So, if gambling is considered an offence, launching operations against this offence may not necessarily cause pathological gamblers to become extinct.

Furthermore, Deputy Secretary Stephen FISHER also knows that I have a very simple request and that is, a visit to the nearest city, Macao, to conduct studies in order to find out how many pathological gamblers there are in Macao. Many years ago, I went to the Lisboa Casino. I have also been there recently, because I would like to have a look at the situation inside the Lisboa Casino. I did not wish to gamble there. I only wished to find out if the people there wore a mask. This had to do with SARS, and I wanted to find out whether the people there had put on masks. I found that not many people there wore masks at that time. So, I must declare that I did not gamble in the casino. From what I had seen there, gamblers in the Lisboa Casino were not local people. They were all Hong Kong people or people from other places, such as Taiwanese, and there were also a small number of South Koreans and Japanese. So, will the liberalization of gambling lead to pathological gambling or foster the trend of gambling? The answer is in the negative.

The Secretary may say that I am contradicting myself because according to what I have said, I should support authorization. But I already told the Secretary from the outset that I do not support it on the basis of my reasoning and justifications. The simplest justification boils down to my moral values, and this is my only lofty experience. Being a Member of the Legislative Council, I have been feeling rather distressed in the past few days and I have not slept well several nights in a row. I have been telephoning or sending e-mails to some people, consulting many of my voters whom I trust or who, in my view, have excellent analytical power. Their replies showed a fifty-fifty split in opinions, and they considered it better to leave it to my own decision. While I had felt so distressed, they did not know how they could help me. Although they do have their stances, they still chose to leave it to my decision finally. So, I state my position on basis of a very simple moral consideration and that is, football betting will have far-reaching impact on the next generation. I hope that history will bear witness to my non-supportive stance. I say that gambling is primarily evil and "secondarily devil" for it will lead to a great many problems, such as money laundering.

In this connection, my advice to the Government is that — This Bill is very likely to be passed today and I estimate that it would be passed by 30 votes to 25 or 26 votes. A number of Members will disappear from the Chamber and I can say who will be disappearing to enable this Bill to be passed. But even if the Bill is passed, they will not be complacent. I can already see that the Secretary

and you, Madam Deputy, look annoyed and have pulled a long face, especially the Secretary — I hope the Government and most of all, the Secretary, can address the problem of gambling from many angles, and in order to address the problem of gambling, we must start from education.

I think Deputy Secretary Stephen FISHER may recall that I spotted some figures in their papers which showed that their concepts were wrong. I wonder if he still remembers this. Their teaching materials have outrageously taught people to gamble. You, Madam Deputy, may remember this too. Their concepts are flawed, and I urge them to start from education. Moreover, I hope the Government, in promoting football betting, will not primarily focus on the revenue. I am not in the least worried about the revenue aspect. I mean if we can do our job properly and had there not been the SARS outbreak, could this ever happen to our revenue? Can we do better in other areas, particularly in respect of preventive measures, so that the people can have a better time? Football is certainly a kind of healthy activity and sports in principle. It is not my wish that adults or youngsters would link this healthy activity with gambling. This is similar to the point mentioned by me earlier in a question to the Secretary for Security during the Question Time, that I feel frightened whenever I go to Sham Shui Po and Shanghai Street, for those places are linked with certain vice activities. I am very worried. I hope that, after this Bill is passed (I reckon that it is going to be passed), the Government will bear in mind that it must inculcate in the public, particularly our next generation, a healthy concept of this ball called football, and handle the football sport with a healthy concept. Please also bear in mind that education is very, very important. It should never treat education lightly.

Let me reiterate that I have gone through a hard time making this decision today. But as a Member, I must cast a sacred vote based on independent thinking and independent judgement. This very sacred vote by me is that I oppose the authorization of football betting. I hope that this can be truly reflected in history.

Thank you, Madam Deputy.

**DR TANG SIU-TONG** (in Cantonese): Madam Deputy, I rise to speak against the legalization of football betting. Some people said that it is not legalization

of football betting, but authorization of football betting. I think this is only a word game which seeks to pass off fish eyes as pearls.

Madam Deputy, although I am not a member of front-line educators, I take interest in endeavours to sponsor education. Our objective is to enable the next generation to grow up and develop in a good environment. However, the legalization of football betting will definitely do harm to the next generation and for this reason, I oppose this Bill.

Madam Deputy, football is a sports most popular among youngsters. Matches of the four major international and European football league have attracted a large following among youngsters. Once football is fused with gambling and legalized, the attractiveness of football matches, together with convenient betting outlets of the Hong Kong Jockey Club (HKJC) and on-line football betting, and user-friendly and diversified betting options will certainly render football betting a tempting form of gambling most attractive to youngsters in the history of Hong Kong.

At the end of last year, an organization conducted a survey on the impact of legalized football betting on youngsters. Among the 725 students aged between 15 and 21 interviewed, close to 40% stated that they would "definitely" or "likely" take part in football betting following the legalization of football betting, and close to 30% of the interviewees who had not taken part in any form of gambling before said that they would try to bet on football matches. All those student interviewees who had participated in gambling said that they gambled with the main purpose of "making quick money". Early this year, the results of a similar survey also showed that about 24% of the 297 interviewees aged below 18 had said that they would place bets on football matches after football betting was legalized.

The earlier the evils of gambling begin to spread among youngsters, the greater the chances of youngsters becoming pathological gamblers in future; and football betting is precisely the strongest catalyst. Once the youngsters' mind is dominated or distorted by gambling, society will have to pay a dear price for this. Some people said that whether or not to gamble should be an adult decision and we should not step in and pass a moral judgement. This is correct on the surface. But then, the underage would be exposed to a social environment where football betting is legalized. Influenced by what they

constantly hear and see, they would unconsciously go astray. This is unfair to our next generation.

I understand that football betting is gaining increased popularity in the community nowadays. But this is precisely the reason for us not to support the legalization of football betting, in order to curb the rampant spread of the gambling trend. I am not sure as to how much the HKJC can snatch from bets placed with illegal bookmakers after football betting is legalized. But I am sure that the number of people engaging in football betting is set to increase, and the last thing that I wish to see is youngsters becoming new customers of gambling dens operated by the HKJC.

Madam Deputy, the Government has told the Bills Committee that according to its rough estimates, there would be an annual turnover of \$30 billion after the legalization of football betting. If 10% of the turnover comes in as the gross profit, the profit will then be \$3 billion. If half of the profit goes to the Government, it means that the Treasury will have an additional revenue of \$1.5 billion and the tax rate will be about 5%. Nevertheless, the Government or the HKJC knows only too well that the turnover of horse racing in recent years has continued to drop. One of the reasons may be that the bets have shifted to illegal football betting. This trend is set to become even more rampant after football betting is legalized. Pursuant to the amendments made some time ago, the rate of betting duty is set at 20% of the pool. The tax revenue now is four times as much as that to be generated from football betting and the risk involved is zero. The turnover of bets on horse races in the previous season was about \$70 billion. If, after the legalization of football betting, \$10 billion of bets on horse races would shift to football betting, the Government's tax revenue would record a drop of \$2 billion.

Moreover, football betting is different from horse race betting. In respect of betting on horse races, the HKJC is only the middleman. Disregarding the results of the races, the HKJC can receive a 5% commission in any case and the Government can levy a duty of an additional 20%. Football betting is completely different. The HKJC will be betting direct with the bettors. While the risks may be offset by hedging, the HKJC will not certainly win and it may suffer big losses anytime! No one can guarantee that football betting can generate receipts to the Treasury. Worse still, football betting and horse race betting will eventually be made to share a confined market, and the bets will be like "pigs' intestines cooked in boiling water" in that both ends will simply

shrink. That will happen certainly. Hearing that the revenue from football betting can help alleviate Hong Kong's fiscal deficit, we do have mixed feelings! There were times when an annual surplus of \$1 billion or \$800 million was registered in our revenue. But now, we have to increase revenue by introducing new forms of gambling. What a pity indeed!

Certainly, the HKJC may attract bets from overseas, like overseas bookmakers unlawfully enticing bets from the territory. But as a common saying goes, "do not do to others what you do not want others to do to you"! Could it be that the Government intends to pit its wits against international bookmakers and compete with them for the international market? Or does it intend to gain a footing in the mainland market and extend its promotional efforts to the Mainland? Even if the HKJC has the ability to do so, would there be any problem in the moral sense if the HKJC accepts bets from overseas bettors who are not allowed to bet on football matches in their countries? Would the revenue so generated be decent earnings?

Furthermore, the Government has stated that legalizing football betting could combat illegal bookmakers. But I think illegal bookmakers and off-shore bookmakers are attractive to bettors because their odds are attractive and they accept "verbal bets" or credit cards for settling transactions. These advantages cannot possibly be offered by the HKJC. But the most serious consequence is that in order to compete with illegal bookmakers for customers, the HKJC will definitely exert itself to launch publicity and promotional campaigns. As a result, the total number of people engaging in football betting will increase and the trend of gambling will become all the more prevalent in the community. When gamblers abound, what reason is there for illegal bookmakers to worry about not having customers? For those youngsters who are attracted by legalized football betting but cannot visit betting outlets of the HKJC and obtain payouts lawfully, to whom can they turn if not illegal bookmakers? Honestly speaking, even if legalizing football betting can successfully snatch customers from illegal bookmakers, gambling will not do less harm to the community. Consequently, we will be placed in a situation like fighting a wolf at the front gate but letting a tiger in through the back door. While the Government introduces a new form of gambling, society is set to pay a price!

With these remarks, Madam Deputy, I oppose the Second Reading of the Bill.



**MR TOMMY CHEUNG** (in Cantonese): Madam Deputy, during the deliberations on the Bill, many colleagues and I had listened to the representations by as many as 80 to 90 organizations, including social worker organizations, religious groups, education organizations, and so on. They spoke of their worries, and I had heard all their views.

Last night, in the carpark, I also heard their prayers and I heard them singing hymns for as long as half an hour. So, our Government should have heard their worries by now. Disregarding whether or not this Bill can be passed, the fact is that the problem of pathological gamblers, though not serious, does exist in Hong Kong and has affected many families. If not, the social worker and religious sectors would not have come out in such a high profile, and they would not have made such a sustained effort to make their voices heard. In the course of the scrutiny of the Bill, many people even sat in on all our meetings and scrutinized the Bill with us together. Therefore, I hope that the Government can really do something for the benefit of Hong Kong people, including pathological gamblers. Let us put aside the question of whether or not this Bill is going to be passed today. Seeing that so many Members have expressed opposition to the Bill, I think the Government's situation may be somewhat precarious.

Having said that, however, as I have said on different occasions and even in this Council, football betting cannot be linked with pathological gamblers. Pathological gamblers have a peculiar characteristic, which is they will keep on gambling and cannot leave the gambling table. So, on this question, I think it is grossly unfair to link all gambling problems and the problem of pathological gamblers in Hong Kong with this Bill on betting duty.

(THE PRESIDENT resumed the Chair)

I have just read a report in *Hong Kong Economic Times* dated 6 June on the results of an opinion poll conducted by the University of Hong Kong. I must point out that this information is not provided to me by the Government. I obtained it by myself for personal reference. According to the results of this opinion poll, 74% of the respondents supported the legalization of football betting, representing a 20% increase in the number of supporters compared to the rate two years ago. The results also showed that after football betting is

legalized, only 12% of the people would take part in gambling. The figure is only about 1% higher than the results of the survey conducted by the Home Affairs Bureau. However, 50% of the people stated in the opinion poll that they started gambling at the age of 15. This shows that they already started gambling before football betting is legalized. The trend of football betting has intensified following the broadcast of many spectacular overseas matches on the television. In fact, this opinion poll has told us that many youngsters already started gambling at the age of 15. From my personal experience, whether in casinos or horse racing or dog racing courses, I can often hear people talking in Cantonese. Many of them may be compatriots from Hong Kong or Guangdong Province, and it is true that they are particularly interested in these gambling pursuits. In this opinion poll conducted in around March this year, 600 people were randomly interviewed by telephone. When asked of the reasons for supporting football betting, over 40% of the respondents said that they had great confidence in the Hong Kong Jockey Club (HKJC) that it would effectively manage football betting. Another 30% to 40% of the respondents said that they could avoid breaching the law and legalization could also provide funding for activities in the interest of the community.

Moreover, apart from acknowledging the results of this opinion poll, I would also like to say that I personally think that, as the HKJC is a non-profit-making body, it will not deliberately lure the underage to take part in gambling activities. I said so because firstly, the business performance of the HKJC is available for our reference and secondly, the HKJC, being a non-profit-making body, will not breach the law in order to do more business. Therefore, I have great confidence in football betting being managed by the HKJC. However, as the opinion poll has revealed that half of the respondents already started gambling at the age of 15, I can understand why the education sector is so concerned about this issue. Therefore, I urge the education sector to exert more efforts. The Government may also need to provide assistance, and parents may also have to do their utmost. The problem will not disappear just because football betting is not legalized. Since the opinion poll has revealed this point, I hope that Members can make reference to it.

I will not support the amendment proposed by Ms Cyd HO, for I do not think that the availability of proper matching facilities should be linked with the authorization of football betting. It is because the existing problem of pathological gamblers has long existed. The situation will not be affected football betting coming into effect in August this year or January next year, and

the number of gamblers will not increase considerably or decrease markedly as a result. That said, I wish to remind the Government that its policies should not be tardy. Given that this is a social problem in Hong Kong, a problem obvious to all, I hope that the Government, irrespective of the passage of this Bill or otherwise, will expeditiously address the problem of pathological gamblers. Disregarding whether or not tax revenue will be generated, this will remain as a social problem, and I hope the Government will address it expeditiously.

Finally, Madam President, I am very grateful to Mrs Selina CHOW. Credit is due to her not because she is a party colleague. Mrs Selina CHOW has indeed done a very good job in chairing the meetings. Government officials have also acquitted themselves very well. So, although we did not work on this issue for a very long time, we had been able to listen to the representations of all 80 to 90 organizations, affording them an opportunity to express their views. Members of the Legislative Council also had sufficient time to discuss the Bill. I had a good time during the deliberations on the Bill and I had also learned a great deal. I support the Second Reading of the Bill. Thank you, Madam President.

**MR LEUNG YIU-CHUNG** (in Cantonese): Madam President, in making a decision on voting for or against this Bill today, I actually have to consider many factors. This is the most difficult decision for me with regard to a Bill since I took office as a Member of the Legislative Council. What are the main reasons? The Neighbourhood and Workers Service Centre to which I belong has discussed the Bill three to four times. Those who considered this issue from a moral angle and those who considered it from the angle of freedom all have very strong justifications of their own. When we expressed individually our views on how the vote should be cast, the result showed a fifty-fifty split, similar to that described by Mr Michael MAK earlier on. It was utterly difficult for me to make a decision. Finally, they leave the voting decision to me. But I do find it very difficult, and I do not know what to do.

I thank the Government for not making me a main target of their lobbying in the last couple of days, so that I could have more time and room to consider this issue and decide on what I should do. On this issue, many people who hold a supportive view look at it from a moral angle. But is that enough? I have some misgivings about it, and I also have some questions about it. I think

gambling basically premises on the mentality of taking chances, which is abnormal. So, I think it is correct to disapprove of it from a moral viewpoint. But the question is: If we resort to the law, that is, to enact legislation to restrict this mentality of taking chances, is that plausible? I find this very worrying.

Why? In recent years, in particular, we have often faced issues which, if considered from a moral viewpoint, will very likely cause a huge impact on our personal freedoms and the freedom of information. For example, this often happens in respect of publications and in the media, in that regulation is imposed on moral grounds first, followed by further restrictions. For this reason, I think we cannot look at the problem of gambling today simply from a moral angle. Certainly, from the angle of freedom, this will mean an additional choice since gambling, after all, has to do with a person's free choice. No one can be forced into it, so why do we not provide an alternative? However, to many people, gambling, unlike other things, is extremely important and will affect their personal lives and family lives. We, therefore, cannot treat it as simple as a matter of free choice.

Some people think that if we do not look at this issue from a moral viewpoint or from the angle of freedom, can we then look at it from a financial perspective? The financial perspective means tax receipts. This is also a justification put forth by the Government as it says that this can help us solve some problems. But even if we look at the figures provided by the Government, the duty revenue to be generated is still limited, for it will at most be some \$1.5 billion only. Compared with a \$80 billion deficit faced by us now, \$1.5 billion is really not that much. Furthermore, I also have a big question. After the Bill is passed, will foreign capital be really coming into the territory to engage in football betting activities? This may not be the case. It will most likely be the local people who will engage in football betting. The situation will be like that of property speculation and the buying of stocks as it will only be the same group of people engaging in such activities. It involves only the money of local people, and this may not necessarily be very helpful to increasing the resources of Hong Kong. So, from this perspective, a very strong reason is lacking to support the proposal. Disregarding from which viewpoint the issue is considered, I fail to find any strong argument that can particularly convince me that I should vote for or against the Bill. Thus, so far, I still find it rather difficult to make a decision.

Of course, as I am here tonight, I must make a decision at the end of the day, and I think I should vote against it. Why should I vote against it? The principal reason is that the forms of gambling in Hong Kong now are already multifarious. As I said in 1999 during the discussion on the problem of gambling, other than horse racing and Mark Six, Hong Kong people can also speculate in stocks and property. All these are different forms of gambling indeed. Since there is already a great many forms of gambling, adding one more will only result in one more group of people taking part in gambling. I do not wish to add fuel to the flames at this point in time. I think one option less is one option less, and the opportunity of gambling will then be less. For this reason, I will vote against the Bill.

Nevertheless, just when I decided to vote against the Bill, something suddenly came to my mind. Members may recall that the HKJC had earlier on openly recruited over 3 000 people, having no regard for the fact that the Bill was still under deliberation. We all know that as the economy is in such a bad shape now, many people are keen to find a job. The creation of over 3 000 jobs by the HKJC is good news indeed. To those people who have long been unemployed, this is good news and particularly, to those who are offered employment in this exercise, this is definitely good news. If this Bill is negated because of our opposition today, what is going to happen to these people? This is a headache indeed.

I think although I belong to the labour sector, I cannot only consider the employment of these 3 000 people. Furthermore, the problem concerning the employment of these 3 000 people is not caused by me. There is this problem because the HKJC did not respect and attach importance to the Legislative Council. It is because the HKJC treated the Legislative Council as a rubber stamp and embarked on the recruitment exercise, thinking that the Bill would certainly be passed. Such being the case, even if the Bill is negated, I think the HKJC is obliged to bear responsibilities for its own decision. It cannot kick these people away on the ground that the Bill has been negated. The HKJC must employ these people and assume responsibilities for its own decision. So, I first felt that I was under pressure but then, I realized that it should not be pressure on me, but pressure on the HKJC. The HKJC should take the responsibilities for making a decision that it should not have made in the first place. Further, I think this will also teach the HKJC a lesson, so that it will learn that even though it wishes to get things done quickly, it cannot be disrespectful to the procedure and the current legislative process. Otherwise, it

would be tantamount to having no legislative system in place, and the system would hence be rendered meaningless. In that case, there would be nothing left to speak of in Hong Kong. So, incidentally, I wish to make an appeal. No decision similar to that of the HKJC should be made anymore, because that is indeed too disrespectful to us and a brazen attempt to treat the Legislative Council as a rubber stamp.

Anyhow, if this Bill is ultimately passed today, I, like many colleagues, will be worried that some people will become pathological gamblers because of football betting. Once they become pathological gamblers, it will do harm not only to themselves but also to society. That is where the key problem lies. I think this is not only a zero-sum game. Worse still, this may be more of a question of negative numbers. If a person becomes a pathological gambler, it would be best if he could be cured. But if he could not be cured and if he then kills himself, that would be most tragic for he would have chosen a road of no return because no one can die twice. This is our greatest worry and concern.

Therefore, I cannot support this Bill today. Although we reckon that the Bill may still be passed, I hope the Government can attach importance to this issue. If football betting is really authorized, the Government must step up publicity to make more people understand the consequences of gambling. In the meantime, it must set up more facilities and support centres to help those people who are addicted to gambling.

Madam President, I so submit.

**MR YEUNG YIU-CHUNG** (in Cantonese): Madam President, I remember that on 15 December 1999, I moved a motion on "Opposing the legalization of gambling on football matches" in the Legislative Council. The motion was negated, and I reckon my endeavour today may also fail. But three and a half years have passed, and as we look at the same issue again today, my position has not changed with the times. I still maintain my opposition to the Bill mainly for the following reasons:

Firstly, the legalization of football betting will have adverse impact on the physical and mental health of youngsters as well as on their growth. As we all know, football is a healthy sport well-received by young students. Once football betting is legalized, this sport which is beneficial to both physical and

mental health will be tainted with gambling, consequently changing the nature of football as a sport into a tool of gambling. This will prompt more young students to take part in football betting activities, thus breeding and spreading concepts of taking chances, such as to make gains without pain, to win a fortune by placing one bet and to make quick money.

Secondly, the legalization of football betting will spur the gambling trend. This will increase the number of problem and pathological gamblers, causing even more family and social problems to arise. According to a study conducted in the United States, following the introduction of more lawful options for gambling, the number of people taking part in gambling will increase accordingly. At present, while the people can bet on football matches through illegal bookmaking syndicates, it is certain that not a majority of the people have taken part in it. But if the Government legalizes football betting activities, this would only encourage people who have not taken part in football betting to gamble on football matches, thus pushing up the number of participants in football betting. Particularly, given the gambling trend is already rampant in Hong Kong, coupled with the present economic downturn, the unemployment rate consistently reaching new heights and the ever increasing number of owners of negative equity assets, many people have attempted to take short-cuts by gambling. Some people think that "why not place a bet when business is slack?" or "the poorer one gets, the more he is drawn to gambling". With the Government's promotion of legalizing football betting, these people will be tempted to take risks by betting their fortunes and even their lives. This runs counter to the SAR Government's direction of practically pursuing economic development, boosting employment, speeding up economic restructuring, developing high value-added industries and also revitalizing and reinvigorating the economy.

Some people think that the public has a great demand for football betting and that this demand should be satisfied. In fact, there are already sufficient and convenient choices for those Hong Kong people who want to engage in gambling. In Hong Kong, people can gamble on horse races, buy Mark Six tickets, and play mahjong. If they want to gamble and to bet on football matches, they can spend as much money as they like in neighbouring Macao. It is indeed unnecessary to add fuel to the already rampant gambling trend, for this will lead to even more problems in society.

Some people think that legalizing football betting can curb illegal football betting, an attempt to stamp out an evil by creating an evil. But it is doubtful as to whether the desired result can be achieved. Indeed, legalizing football betting cannot eliminate illegal football betting activities. Worse still, it may even be counter-productive. According to a study conducted by the Department of Justice of the United States, in some states where gambling is legalized, the figures in relation to illegal gambling activities are often three times higher than those in states where legalized gambling is absent. This is because legalized gambling activities are often associated with extensive publicity to make everyone know about the options. Illegal gambling syndicates will, therefore, take advantage of these publicity efforts. They can save the costs for promoting gambling on the one hand and accept bets on football matches on the sly on the other hand. Moreover, betting with illegal bookmakers is often convenient. Concessions are provided, and a great variety of gambling options is also available. So, all these cannot be replaced by legalized football betting. This also explains why illegal gambling will still grow and will not subside even though gambling is legalized. This also shows that it is just a wishful thinking that legalizing football betting can turn an evil into profit. Let us take a look at the reality in Hong Kong. The Hong Kong Jockey Club (HKJC) has been operating for decades and its management is of first-class international standard. But still, illegal horse race betting activities are still rampant. At present, the turnover of illegal bookmakers accounts for as high as 30% to 50% of the total turnover of the HKJC. The HKJC has suffered great losses but can do nothing at all. Therefore, the argument of legalizing football betting to stamp out illegal football betting simply cannot stand.

Although the Government has undertaken to set up a dedicated fund to provide funding for gambling-related research projects, conduct publicity and education on the prevention of gambling, and assist problem and pathological gamblers to mitigate the adverse impact of legalization, the DAB maintains that the legalization of football betting is unnecessary and inappropriate. I opposed the legalization of football betting and I urge the Government to step up efforts in law enforcement and public education, in order to effectively combat illegal football betting activities.

Regarding Mr Albert CHAN's comment on the vote to be cast by the Chairman of the DAB, Mr Jasper TSANG, as a Member of the Executive Council, that is nothing more than a naive remark by Mr Albert CHAN or a



remark seeking to deliberately cause divisions, and such remark is not worth refuting. Mr Albert CHAN's attitude of opposing the DAB on everything is common and not novel at all.

With these remarks, I oppose the Bill.

**MR JAMES TO** (in Cantonese): Madam President, I just wish to explain clearly the principle, which is simple. I oppose the Bill mainly for three reasons. First, the legalization or authorization of betting will create new gamblers. As long as betting is not legalized, there will still be certain restraints, such as moral restraints. In fact, there are people who do not take part in unlawful activities. But once these activities are legalized, they will become prevalent, however hard the Government will work in the future to conduct publicity or impose control. In that case, new gamblers will be fostered, and among them there will also be new pathological gamblers.

Second, the argument of the Government is that they will not and cannot put a stop to it. The assumption is that many people now take part in football betting with great enthusiasm. A lot of people are taking part in it and so, the Government does not wish to see these people breaching the law. In some cases, people gamble by taking out loans or they gamble on credit, and some of the money will then be turned into the revenue of the Government. After a certain period of time, illegal football betting syndicates will invent new betting options. They may make changes to the existing football betting options or they may invent brand new options to capture bettors' interest. One day when football betting is no longer popular and in order to sustain the prevalence of gambling activities, the people or the illegal gambling syndicates may create another new trend, say, basketball betting. But then, there may not be a channel to bet on basketball matches and so, the Government can again put forward the same argument to justify the propriety of further legalizing basketball betting, given the need to keep abreast with their interest and in order to seize the illegitimate income of illegal bookmakers. Some time later, tennis betting may become prevalent and then it may be the turn of swimming with bets being placed on swimming competitions. In the end, any normal activity which is good to physical and mental health may be involved and if its popularity fades after a certain period of time, betting will then extend to another activity and this will simply go on and on to no end.

The Hong Kong Jockey Club (HKJC) is precisely an illustrative example in reality. It has often been the case that the HKJC will make very loud noises whenever its turnover drops. Certainly, I do understand that many social service organizations will be affected when its income drops. But when its turnover reaches a new height, should we open a bottle of champagne for celebration? Over the past eight to 10 years since I took office as a Member of the Legislative Council, whenever the HKJC creates new betting options, such as place, all-up, quinella all-up, and so on, I would invariably question why so many options are created to sustain the punters' interest. Is it necessary? The Government will always reply that it is necessary just because of a reduction in the bets and the need to develop a new interest in the public. It will say that it does not intend to foster their interest, but to sustain their interest only. What sort of rationale is this?

Finally, this form of gambling is the first of its kind, for it is different from all the other existing forms of gambling. It is different in that the people are gambling with the Government. Despite that the HKJC is the agent, as long as there is a discrepancy of \$1, that \$1 would be a bet between the people and the Government. That is, it will be either the people win or the Government wins. Although the Government said that the risk could be minimized by placing hedging bets with offshore bookmakers (that is, a legitimate means to offset risks), the key principle is that the Government will be betting with the people. This is a departure from the usual way with the people gambling with the people and the Government acting only as the middleman who earns commission. Now, it is apparently the first time that the Government introduces a form of gambling in which it gambles with the people. I think this principle is immoral and undesirable. The Government should not gamble with the people. Obviously, I think that the Chief Executive, in his handling of the issue of legislation on Article 23 of the Basic Law, is also gambling with the people. But this is outside the scope of the topic under discussion now and I shall not dwell on this any further.

**MR ABRAHAM SHEK:** Madam President, most of the time, I pity you because you have to sit through here and listen to all the speeches. But this is the first time that I envy you because you do not have to make a decision. This has been a very difficult decision for me. To be perfectly honest, I have deep reservations about the Bill, mainly because of its possible impact on society,

especially the young. Various members of the public, including those from the education sector, religious organizations and parents, share with me similar worries that the problem of excessive gambling and addiction could spread and intensify.

Even more worrying is the general perception of our Government's indifferent attitude towards those with opposing views. It has attempted, in every possible way, to play down the scope and level of the Bill's negative influence on the young and other vulnerable groups in our society. Yet, it has never directly addressed the opponents' concerns. In a way, the opponents' voices have largely been ignored. This, in a way, is a reflection of the Government's half-hearted conviction and belief on the subject. Mr Stephen FISHER, whom I know quite well and being the custodian of this Bill, has worked very hard. He is also a person of great moral values. But on the issue of morality, he failed to adequately address it in regard to this Bill. I respect and understand his stance, because he considers that football gambling is not an issue of morality.

Certainly, there are preventive measures that can tackle and counsel gambling problems. But obviously, they are measures of expediency made under political pressure. I myself have grave doubts whether they would be effective and whether the Government would commit itself wholeheartedly in these programmes' implementation over the long term.

It is clear to me that the Government desperately wants to boost the tax revenue base through legalizing soccer gambling. Whether this is true or not, this is the general perception. After considering long and hard about the fact that our huge deficit problem remains unresolved, I have decided, reluctantly, to vote for this Bill.

The ending of this legislative procedure does not mean that the Government has completed its task in this area though. After today's vote, there is still much more work ahead down the road — including improving education and awareness of the hazards of gambling and giving more support to those with betting addictions, to name just a few. In the long term, the Government must react and respond, with constant alertness, to potential social problems and changes brought about by this law. It would be incredibly wrong

and dangerous if the Government thinks that social responsibility can be abandoned after getting what it wants politically.

Madam President, with these words, I so submit.

**PRESIDENT** (in Cantonese): Does any other Member wish to speak?

(No Member indicated a wish to speak)

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Madam President, first of all, I wish to extend my heartfelt thanks to the Chairman of the Bills Committee on Betting Duty (Amendment) Bill 2003, Mrs Selina CHOW, as well as other members of the Bills Committee for convening as frequent as 12 meetings in the past month or so, meeting with over 90 deputations to listen to and consider their views on the Betting Duty (Amendment) Bill 2003, and seriously scrutinizing the Bill and the various amendments, to enable the Bill to be tabled for the resumption of the Second Reading debate at this last meeting before the Legislative Council rises.

We will move a series of amendments at the Committee stage later. Many of the amendments have been made in response to the views expressed by the Bills Committee and individual members, and the rest of the amendments serve to improve the provisions of the Bill, with a view to further improving the entire authorization arrangement and the mechanism under which betting duty is levied and administered.

As pointed out by the Chairman of the Bills Committee, Mrs Selina CHOW, in her report earlier on and also by Members in their speeches, Members have many suggestions about the Bill and the underlying rationale of the policy. In my following speech, I would like to give a consolidated response to the key points made by Members.

Firstly, as regards the policy on gambling and the objective of the Bill, it is the long-standing policy of the Government to restrict gambling activities to a limited number of authorized and regulated outlets. The spirit of this policy is not to encourage gambling, and the authorization of football betting is introduced

in furtherance of this policy. The purpose of this proposal is to combat the increasingly rampant illegal football betting activities.

On the effectiveness of authorization of football betting, Members had misgivings about the effectiveness of combating illegal football betting by authorizing football betting and expressed concern that this would on the contrary facilitate the growth of illegal football betting syndicates. We agree that authorizing football betting cannot eradicate illegal football betting in its entirety. However, it can divert bets currently placed with illegal gambling operators to regulated outlets, thereby undermining the viability of illegal bookmakers. There are mainly three reasons:

Firstly, the licensing and regulatory mechanism under our proposal will duly provide the licensee with latitude and flexibility. The licensee will be allowed to, among other things, flexibly adjust the bet types and match types for which bets are accepted, place hedging bets to reduce its risk exposure and pay betting duty on gross profits. These conditions will enable the licensed operator to be sufficiently capable of competing with other illegal bookmakers and gambling companies;

Secondly, we believe Hong Kong people are basically law-abiding. Therefore, if they wish to take part in football betting and if a lawful and regulated licensed operator can provide betting options in keeping with the market trend, the demand in this respect can certainly be diverted to regulated outlets; and

Thirdly, after the Bill has come into effect, the police can focus their efforts on the stamping out of criminal syndicates engaging in illegal football gambling, thus rendering the work of the police in combating illegal gambling more effective.

Regarding the impact of authorization of football betting on society, Members who oppose authorization of football betting or have reservations about this proposal are concerned that the number of people engaging in football betting will increase and the gambling trend will hence be fostered, resulting in more people becoming pathological gamblers. I fully appreciate Members' concern about an increase in the number of people engaging in gambling and the number of pathological gamblers. But in my view, the proposal now put

forward by the Government through this Bill is unlikely to aggravate the problem. On the contrary, it may be helpful to alleviating the adverse effects of rampant illegal gambling activities.

As I said earlier on, we believe the authorization and regulation of football betting can drive many illegal gambling operators out of business. Coupled with the fact that the Hong Kong Jockey Club (HKJC) will accept bets via the existing betting outlets as far as possible, the overall gambling opportunities in the territory will not increase. Indeed, given a large and sustained public demand for football betting, the number of people taking part in football betting has continued to rise. For this reason, we do not think that authorizing football betting will accelerate the rising trend in the number of gamblers. Besides, there is no conclusive evidence to prove that pathological gambling is set to become more prevalent following authorization of an existing gambling activity.

I wish to emphasize that the Government is as concerned as Members are about the impact of gambling on juveniles. Precisely for this reason, we have particularly included many measures to protect juveniles and the underage in our proposal on authorization of football betting. These measures include the making of legislation to the effect that the licensing conditions will prohibit the licensed operator from accepting bets from the underage, strictly prohibit the licensed operator from conducting advertising and promotional activities specific to juveniles, impose restrictions in respect of the time slots during which the licensed operator is allowed to advertise on the radio or television, and mandatorily require the licensed operator to adopt preventive measures against problems relating to gambling. We will also issue codes of practice in respect of these restrictions and work out a more detailed guideline in the light of the actual circumstances. The Football Betting and Lotteries Commission will also provide input in this respect.

Regarding betting information from the media, we appreciate the concern expressed by people engaging in youth education. In this connection, the Government has clearly conveyed to major newspapers and members of the electronic media the aspiration of the education sector and youth service providers, that football as a sport and football betting should be handled separately. I believe they will adopt appropriate measures to reduce youngsters' exposure to betting information whilst ensuring the freedom of information.

On the matching measures and the time of the implementation of the Bill, some Members think that we should consider authorizing and regulating football betting only after adequate and effective measures are implemented to prevent and address problems relating to gambling. The Government takes exception to this view. We think that the two issues should be handled separately.

The problem arising from participation in gambling is a social problem that has all along existed. It is not resulted from the proposal of authorizing football betting. Furthermore, the prime objective of authorizing football betting is to divert the existing demand for football betting activities from illegal channels to regulated outlets, with a view to addressing problems caused by illegal gambling. We do not intend to introduce a new type of gambling activities or create a demand for such.

According to recent police statistics on enforcement, in the first five months of this year, the amount of money seized in connection with football betting has increased by 2.5 folds compared with the corresponding period last year. We think that in August this year when the next football season kicks off, many illegal bookmakers who have laid low for some time will become active again following an upsurge in the demand for football betting, thus aggravating the problem of illegal football gambling. We consider it imperative to pass the Bill before August this year in order to ameliorate timely various problems caused by illegal football gambling.

On measures to address gambling-related problems, we agree that they should be taken on a long-term basis. It is exactly for this reason that we have decided to set up a dedicated fund to be co-ordinated by the Home Affairs Bureau for the implementation of the relevant measures. These measures mainly include research and studies on the problem of gambling, preventive education and publicity, and counselling and treatment services for pathological gamblers. The Government has undertaken to implement these measures regardless of whether the proposal to authorize football betting will be endorsed and when it will be launched. We have been taking steps gradually to implement the various measures. We have also undertaken to closely monitor the financial conditions of the dedicated fund and the required resources for implementation of various measures. We will make appropriate arrangements to ensure sufficient resources for the fund.

There is an urgent need to expeditiously authorize football betting and implement measures to address the problem of gambling. To tackle illegal gambling, we consider that both tasks should be carried out in parallel with the support of stringent enforcement measures. This is a practical option in the best interest of the community as a whole.

Regarding the review of policy, Members are concerned about how the Government will assess the effectiveness of the policy of authorization of football betting and the impact of football betting on society in the future. If the Bill is passed smoothly today, the Government will review the effectiveness of this proposal about two years after authorization of football betting is formally implemented. We will also consider all relevant factors, including the development of illegal football gambling, the relevant enforcement statistics and problems, the prevalence of pathological gambling, and so on. If there is conclusive and obvious evidence to show that authorized football betting leads to many adverse effects on society, the Government will definitely conduct a review seriously and make improvement.

On the Committee stage amendments proposed by Members, the Government opposes the Committee stage amendments proposed by Ms Cyd HO and Mr Andrew CHENG.

Ms Cyd HO proposes to defer the commencement date of the Bill to 1 January 2004, so that the Government can introduce counselling and treatment services for problem and pathological gamblers before formally authorizing football betting. As I said earlier on, there is no direct relationship between these two initiatives. Besides, a deferred authorization of football betting would inhibit the Government from providing timely support to the police's enforcement efforts against an expected upsurge of illegal football gambling activities following the commencement of the next football season in August this year. Moreover, this will cause the Government to suffer losses in receipts from betting duty, thus making it impossible for the HKJC to provide over 3 000 job opportunities in August as scheduled to accommodate those people who have been recruited by the HKJC earlier.

Mr Andrew CHENG's amendments mainly seek to add provisions to the Bill to restrict the scope of football betting, the types of matches and the operating hours of betting outlets. The Government also opposes these proposals, for they would greatly undermine the flexibility and competitiveness



of the licensed operator, making it impossible for the licensed operator to effectively combat illegal and offshore bookmakers, and this will defeat the objective of the Bill. We also do not support Mr CHENG's amendments concerning the operation of the Football Betting and Lotteries Commission and the penalty for illegal sale of betting tickets. I will explain the reasons in detail in the debate at the Committee stage.

To conclude, I wish to point out that since the middle of last year, many opinion polls have shown that over 70% of Hong Kong people support the authorization of football betting by the Government as a means to combat illegal football gambling. In other words, this proposal is widely supported by the public.

For a small number of people who are strongly opposed to the proposal, particularly members of the religious and education sectors, I very much respect their views. In this connection, we have particularly incorporated many proposals into the Bill in respect of the licensing conditions and matching measures, with a view to minimizing the adverse effects of authorization of football betting on society. I hope to maintain contacts with them to ensure that the relevant measures can meet the desired objectives.

All in all, through this Bill, I wish to clearly put across a key message to members of the public and to Members. In authorizing football betting, the Government aims to tackle the social problem of illegal football betting, rather than encouraging the public to engage in gambling. Insofar as those people who have never gambled on football matches are concerned, they can continue not to take part in football betting after the Bill has come into operation. The education sector, the religious sector, youth service workers and members of the community can also continue to inculcate in the minors and the public the concept that they should not take part in gambling. As regards those people who wish to engage in football betting for whatever reason, the Government will urge them to first understand the risks of this gambling activity and the harms of compulsive gambling, before taking part in gambling through a licensed operator and an authorized system in a rational and restrained manner.

Based on the above arguments, I urge Members to vote for the Bill and the Committee stage amendments proposed by the Government.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): Members, before I put the question to you, does any Member wish to declare an interest?

**DR ERIC LI** (in Cantonese): Madam President, I wish to make a declaration, as this issue may involve an interest on my part. I am a Voting Member of the Hong Kong Jockey Club (HKJC). I said "may" because I think this may not really have to do with any interest. Let me explain.

Although it is not stated in the Bill that the HKJC is certainly the licensee, this is already spelt out clearly in the policy, and I think I should not evade this. As far as I understand it, the HKJC will be licensed through a subsidiary and so, even though I am a Voting Member of the HKJC, I will not have any direct involvement in or control over this company which will act as the licensee. I have read the Memorandum and Articles of Association of the HKJC and to my understanding, the HKJC, being a charitable organization, will not in any case distribute its assets or profits to its members or Voting Members. Even in the event of liquidation, its assets still cannot be distributed to its Members. Rather, its assets will be transferred to another organization with similar objects. Therefore, I think it is impossible for me, being a Voting Member of the HKJC, to have any pecuniary interest in this matter. I think I may be a bit over-worried in declaring this interest, but I still think that I should make this clear so that we can cast our votes candidly and with the utmost transparency. Thank you, Madam President.

**MR ANDREW WONG** (in Cantonese): Madam President, I am also a member of the Hong Kong Jockey Club, but I consider it is unnecessary for me to declare my interest, for that does not matter at all. The money which the HKJC makes has nothing to do with us and as a member I only pay the membership fees.....

**PRESIDENT** (in Cantonese): Mr Andrew WONG, there is no need for us to debate on this matter here in this Chamber, if Members would like to make a declaration, they have the right to make one if they so wish. In accordance with the Rules of Procedure.....

**MR ANDREW WONG** (in Cantonese): Madam President, I think there is no need to make a declaration.

**PRESIDENT** (in Cantonese): Mr WONG, please let me explain first.....

**MR ANDREW WONG** (in Cantonese): Madam President, I think there is no need to make a declaration.

**PRESIDENT** (in Cantonese): Mr WONG, if you think that there is no need to make a declaration, then will you please sit down, please? *(Laughter)*

**MR ANDREW WONG** (in Cantonese): Madam President, I think there is no need for Dr Eric LI to declare his interest. You permitted him to say so much on this and I do not think it is proper. *(Laughter)*

**PRESIDENT** (in Cantonese): Does any other Member wish to declare his or her interest? I think if Members have a similar case, they may just raise their hands and do not have to speak.

(Members who raised their hands included Mr Kenneth TING, Mr James TIEN, Mr Albert HO, Dr Raymond HO, Mr Martin LEE, Dr Eric LI, Dr David LI, Mrs Sophie LEUNG, Dr YEUNG Sum, Mr LAU Wong-fat, Mr Abraham SHEK, Mr Tommy CHEUNG and Dr LO Wing-lok.)

Mr Andrew WONG, you think that there is no need to make a declaration, but if other Members would like to make a declaration, then they are free to do so.

**PRESIDENT** (in Cantonese): The Clerk has made a record already. Actually, the Council only requires Members to declare pecuniary interests and so Mr Andrew WONG was right on this point. However, if Members wish to preempt any doubt or misunderstanding and if they wish to make it clear on this point, then I would think that this is also acceptable.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Betting Duty (Amendment) Bill 2003 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(Members raised their hands)

Mr Frederick FUNG rose to claim a division.

**PRESIDENT** (in Cantonese): Mr Frederick FUNG has claimed a division. The division bell will ring for three minutes.

**PRESIDENT** (in Cantonese): Will Members please proceed to vote.

**PRESIDENT** (in Cantonese): Will Members please check their votes. Mr LEUNG Fu-wah, is there anything wrong? As I see it from here, it seems that nothing has gone wrong. *(Laughter)*

**MR LEUNG FU-WAH** (in Cantonese): Madam President, I have pressed the wrong button, I wish to make a correction.

**PRESIDENT** (in Cantonese): Mr LEUNG, have you pressed the wrong button? *(Laughter)* Would you tell me whether you are for or against the motion?

**MR LEUNG FU-WAH** (in Cantonese): I am for the motion.

**PRESIDENT** (in Cantonese): You are for the motion. *(Laughter)*

I now put that on record. Later on when the computer record is printed, if it is correct, then I do not have to amend it; if it is not, then I will amend it.

Fine. Do any other Members have any problems? If not, then voting shall now stop and the result will be displayed.

Of the 59 Members in attendance, 32 are in favour of the motion and 26 against it. As the question is agreed by a majority of Members present, I declare the motion passed.

**CLERK** (in Cantonese): Betting Duty (Amendment) Bill 2003.

**PRESIDENT** (in Cantonese): Members, now the time is 52 minutes past eight o'clock in the evening and I reckon that the remaining items on the Agenda will not be disposed of by midnight. So I now suspend the meeting to nine o'clock tomorrow.

(The Clerk indicated that there was inconsistency with the voting record)

Sorry, will Members please sit down. (*Laughter*) Mr LEUNG Fu-wah had stated before the voting stopped that he was for the motion, but the computer print-out shows that Mr LEUNG Fu-wah was against the motion. Therefore, I have to amend the voting result.

Mr Kenneth TING, Mr James TIEN, Dr David CHU, Ms Cyd HO, Dr Raymond HO, Dr Eric LI, Dr David LI, Dr LUI Ming-wah, Mr NG Leung-sing, Miss Margaret NG, Mrs Selina CHOW, Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Mrs Sophie LEUNG, Mr Andrew WONG, Dr Philip WONG, Mr Jasper TSANG, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Ambrose LAU, Ms Emily LAU, Mr Timothy FOK, Mr TAM Yiu-chung, Mr Abraham SHEK, Ms LI Fung-ying, Mr Henry WU, Mr Tommy CHEUNG, Mr LEUNG Fu-wah, Dr LO Wing-lok, Mr LAU Ping-cheung, Ms Audrey EU and Mr MA Fung-kwok voted for the motion.

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Mr CHEUNG Man-kwong, Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Mr SIN Chung-kai, Mr WONG Yung-kan, Dr YEUNG Sum, Mr YEUNG Yiu-chung, Mr LAU Chin-shek, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr Andrew CHENG, Mr SZETO Wah, Dr LAW Chi-kwong, Dr TANG Siu-tong, Mr Michael MAK, Mr Albert CHAN, Mr WONG Sing-chi, Mr Frederick FUNG and Mr IP Kwok-him voted against the motion.

THE PRESIDENT, Mrs Rita FAN, did not cast any vote.

THE PRESIDENT announced that there were 59 Members present, 33 were in favour of the motion and 25 against it. Since the question was agreed by a majority of the Members present, she therefore declared that the motion was carried.

#### **SUSPENSION OF MEETING**

**PRESIDENT** (in Cantonese): I now suspend the meeting until nine o'clock tomorrow morning.

*Suspended accordingly at six minutes to Nine o'clock.*

## Annex I

## TELECOMMUNICATIONS (AMENDMENT) BILL 2002

## COMMITTEE STAGE

Amendments to be moved by the Secretary for Commerce, Industry  
and TechnologyClauseAmendment Proposed

1

By deleting subclause (2) and substituting -

"(2) Subject to subsection (3), this Ordinance shall come into operation on the day on which it is published in the Gazette.

(3) Sections 3, 4, 5, 6, 7 and 10 shall come into operation on a day to be appointed by the Secretary for Commerce, Industry and Technology by notice published in the Gazette."

New

By adding -

**"1A. Interpretation**

Section 2(1) of the Telecommunications Ordinance (Cap. 106) is amended, in the definition of "carrier licence", by repealing "the Schedule" and substituting "Schedule 1".

2

By deleting everything before paragraph (b) and substituting -

**"2. Guidelines**

Section 6D is amended -

ClauseAmendment Proposed

- (a) in subsection (2) -
- (i) in paragraph (a), by repealing everything after "方式" and substituting "(包括發牌準則以及他擬考慮的其他有關事宜)的指引";
- (ii) by adding -
- "(aa) subject to subsection (2A), specifying the matters, including but not limited to those listed in Schedule 2, that he shall take into account before forming any opinion under section 7P(1) or (6)(a) or (b);";
- (iii) in paragraph (b) -
- (A) by adding "關於" before "第 14(6)(a)條";
- (B) by repealing everything after "問題" and substituting "的指引，但該指引的發出須受第(3)款的規限。";



ClauseAmendment Proposed

- (iv) by repealing "就以下事項發出指引" and substituting "發出";".

New

By adding -

**"2A. Issue of licences**

Section 7(4) is amended by repealing "the Schedule" and substituting "Schedule 1".

3

In the proposed section 7P -

- (a) by deleting the heading and substituting -

**"Authority may regulate changes  
in relation to carrier  
licensees";**

- (b) by deleting subsection (1) and substituting -

"(1) Where, after the commencement of this section, there is a change in relation to a carrier licensee -

- (a) subject to subsection (1A), the Authority may conduct such investigation as he considers necessary to enable him to form an opinion as to whether or not the change has, or is likely to have, the effect of substantially lessening

ClauseAmendment Proposed

competition in a telecommunications market; and

- (b) (where the Authority, after conducting such investigation, forms an opinion that the change has, or is likely to have, the effect of substantially lessening competition in a telecommunications market) the Authority may, by notice in writing served on the licensee, direct the licensee to take such action specified in the notice as the Authority considers necessary to eliminate or avoid any such effect, but the Authority may not issue such direction if the Authority is satisfied that the change has, or is likely to have, a benefit to the public and that the benefit outweighs any detriment to the public that is, or is likely to be, constituted by any such effect.

(1A) An investigation under subsection (1)(a) may only be commenced

ClauseAmendment Proposed

within 2 weeks after the Authority knows or ought reasonably to have known (whichever is the earlier) that the change has occurred.";

- (c) by deleting subsection (2) and substituting -

"(2) The Authority shall, before forming any opinion or issuing any direction under subsection (1) -

(a) give all carrier licensees and any interested person a reasonable opportunity to make representations to the Authority; and

(b) consider the representations, if any, made under paragraph (a).";

- (d) in subsection (3), by deleting everything after "subsection" and substituting "(1)(b), the action may include the procuring of modifications to the change.";

- (e) in subsection (4), by deleting "(1)" and substituting "(1)(b)";

- (f) by deleting subsection (5) and substituting -

"(5) Where there is a proposed change in relation to a carrier licensee, the licensee or any interested person may apply in writing to the Authority for consent to the proposed change.";

ClauseAmendment Proposed

- (g) in subsection (6) -
  - (i) in paragraph (a) -
    - (A) by deleting "is of the opinion" and substituting "forms an opinion";
    - (B) by deleting "may decide" and substituting "shall decide";
    - (C) by adding "作出的" after "建議";
  - (ii) in paragraph (b) -
    - (A) by deleting "is of the opinion" and substituting "forms an opinion";
    - (B) in subparagraph (i), by deleting "or" at the end;
    - (C) by deleting subparagraph (ii) and substituting -
      - "(ii) give consent subject to the direction that the carrier licensee concerned takes the action that the Authority considers necessary to eliminate or avoid any such effect; or
      - (iii) give consent without issuing a direction under subparagraph (ii) if the Authority is satisfied that the proposed change would have, or be likely to have, a

ClauseAmendment Proposed

benefit to the public and that the benefit would outweigh any detriment to the public that would be, or would likely to be, constituted by any such effect.";

(D) by adding "作出的" after "建議";

(h) by deleting subsection (7) and substituting -

"(7) The Authority shall, before forming any opinion, making any decision or issuing any direction under subsection (6) -

(a) give all carrier licensees and any interested person a reasonable opportunity to make representations to the Authority; and

(b) consider the representations, if any, made under paragraph (a).";

(i) by deleting subsection (8) and substituting -

"(8) The Authority shall, by notice in writing served on the carrier licensee referred to in subsection (5) and (where an interested person makes an application under that subsection) the interested person, inform the licensee and (if applicable) the person of -

ClauseAmendment Proposed

- (a) the decision made under subsection (6)(a) or (b)(i), (ii) or (iii);
  - (b) where a decision is made under subsection (6)(b)(ii), the action that the Authority directs the licensee to take.";
- (j) in subsection (9), by deleting everything after "modifications" and substituting "to the proposed change.";
- (k) in subsection (10) -
  - (i) in paragraph (a), by adding "or (b)(iii)" after "(6)(a)";
  - (ii) by deleting "in respect of the change under subsection (1)" and substituting "under subsection (1)(b) in respect of the change";
- (l) by deleting subsection (11) and substituting -
  - "(11) Subject to subsection (11A), the amount of any costs or expenses incurred by the Authority -
    - (a) in making a decision under subsection (6)(a) or (b)(i), (ii) or (iii); or
    - (b) in relation to the processing of an application made under subsection (5),

ClauseAmendment Proposed

is recoverable as a debt due to the Authority from the carrier licensee, or the interested person, who makes the application under subsection (5).";

(m) by adding -

"(11A) The amount recoverable under subsection (11) shall not exceed the amount specified in Schedule 3.

(11B) The Authority shall publish -

(a) where he forms any opinion or issues any direction under subsection (1), the opinion or direction; or

(b) where he forms any opinion, makes any decision or issues any direction under subsection (6), the opinion, decision or direction,

in such manner as he considers appropriate.

(11C) The Secretary may by order published in the Gazette amend Schedule 3.";

(n) by deleting subsection (12) and substituting -

"(12) For the purposes of subsections (1) and (5), there is a change in relation to a carrier licensee if -

ClauseAmendment Proposed

- (a) subject to subsection (12A), a person, either alone or with any associated person, becomes the beneficial owner or voting controller of more than 15% of the voting shares in the licensee;
- (b) a person, either alone or with any associated person, becomes the beneficial owner or voting controller of more than 30% of the voting shares in the licensee; or
- (c) a person, either alone or with any associated person -
  - (i) becomes the beneficial owner or voting controller of more than 50% of the voting shares in the licensee; or
  - (ii) acquires the power (including by the acquisition of voting shares), by virtue of any powers conferred



ClauseAmendment Proposed

by the memorandum or articles of association or other instrument regulating the licensee or any other corporation or otherwise, to ensure that the affairs of the licensee are conducted in accordance with the wishes of that person.

(12A) Subsection (12)(a) does not apply if the person referred to in that subsection, when becoming the beneficial owner or voting controller of more than 15%, but not more than 30%, of the voting shares in the carrier licensee concerned -

- (a) either alone or with any associated person, is not, or does not concurrently become, the beneficial owner or voting controller of more than 5% of the voting shares in any other carrier licensee; and
- (b) either alone or with any associated person, does

ClauseAmendment Proposed

not have the power (including by the holding of voting shares), or does not concurrently acquire the power (including by the acquisition of voting shares), by virtue of any powers conferred by the memorandum or articles of association or other instrument regulating any other carrier licensee or any other corporation or otherwise, to ensure that the affairs of such other carrier licensee are conducted in accordance with the wishes of that person.";

(o) in subsection (13) -

(i) in the definition of "表決控權人", by deleting the full stop at the end and substituting a semicolon;

(ii) by adding -

"associated person" (相聯人士), in relation to a person, has the meaning assigned in the definition of "associated person" in section 2(1), but -

ClauseAmendment Proposed

- (a) the references to "the licensee" in that definition shall be construed as references to the person; and
- (b) where the person is a corporation, the references to "associated corporation" in that definition shall be construed as references to a corporation over which the person has control, a corporation which has control over the person or a corporation which is under the same control as is the person;

"interested person" (有利害關係的人)  
means -

- (a) in relation to a change referred to in subsection (1), a person who does any of the acts referred to in subsection (12)(a), (b) or (c) in relation to the carrier licensee concerned;

ClauseAmendment Proposed

- (b) in relation to a proposed change referred to in subsection (5), a person who proposes to do any of the acts referred to in subsection (12)(a), (b) or (c) in relation to the carrier licensee concerned;" .
- 5 (a) In paragraph (a), by deleting "or (1A)" and substituting ", (1A), (1B) or (1C)".
- (b) In paragraph (b), in the proposed definition of "appeal subject matter", by deleting paragraph (b) and substituting -
- "(b) in relation to an appeal under section 32N(1A), (1B) or (1C), means an opinion, direction or decision of the Authority published under section 7P(11B);".
- 6 By deleting the clause and substituting -
- "6. Appeals to Appeal Board**
- Section 32N is amended -
- (a) by adding -
- "(1A) Any carrier licensee aggrieved by an opinion, direction or decision of the

ClauseAmendment Proposed

Authority published under section 7P(11B) may appeal to the Appeal Board against the opinion, direction or decision (but the licensee may so appeal only if the opinion, direction or decision was formed, issued or made in respect of the licensee).

(1B) Any person who -

(a) is, in relation to a change referred to in section 7P(1), an interested person within the meaning of paragraph (a) of the definition of "interested person" in section 7P(13); and

(b) is aggrieved by an opinion or direction of the Authority published

ClauseAmendment Proposed

under  
section  
7P(11B)(a)  
in respect of  
the change,

may appeal to the Appeal Board  
against the opinion or direction.

(1C) Any person who -

- (a) is, in relation to a proposed change referred to in section 7P(5), an interested person within the meaning of paragraph (b) of the definition of "interested person" in section 7P(13); and
- (b) is aggrieved by an opinion, decision or direction of the

ClauseAmendment Proposed

Authority  
published  
under  
section  
7P(11B)(b)  
in respect of  
the  
proposed  
change,

may appeal to the Appeal Board  
against the opinion, decision or  
direction.";

- (b) in subsection (3), by adding "subsection (1A), (1B) or (1C) or" before "section 36C".

7 By deleting everything after "substituting" and substituting "", or before the opinion, direction or decision referred to in section 32N(1A), (1B) or (1C) was formed, issued or made, as the case may be.".

New By adding -

**"8. Licences which are not carrier licences within the meaning of section 2**

The Schedule is renumbered as Schedule 1.

**9. Schedule 2 added**

The following is added -

ClauseAmendment Proposed

"SCHEDULE 2

[s. 6D(2)]

**MATTERS TO BE TAKEN INTO ACCOUNT  
BY AUTHORITY**

1. The height of barriers to entry to a telecommunications market.
2. The level of market concentration in a telecommunications market.
3. The degree of countervailing power in a telecommunications market.
4. The likelihood that the change would result in the carrier licensee or interested person being able to significantly and substantially increase prices or profit margins.
5. The dynamic characteristics of a telecommunications market, including growth, innovation and product differentiation.
6. The likelihood that the change would result in the removal from a telecommunications market of a vigorous and effective competitor.
7. The extent to which effective competition remains or would remain in a telecommunications market after the change.
8. The nature and extent of vertical integration in a telecommunications market.
9. The actual and potential level of import competition in a telecommunications market.



ClauseAmendment Proposed

10. The extent to which substitutes are available in a telecommunications market."

**10. Schedule 3 added**

The following is added -

"SCHEDULE 3

[s. 7P]

SPECIFIED AMOUNT

\$200,000."."

**Appendix I****WRITTEN ANSWER****Written answer by the Secretary for Education and Manpower to Dr Raymond HO's supplementary question to Question 2**

The qualifications assessment service provided by the Hong Kong Council for Academic Accreditation (HKCAA) offers mainly an academic opinion on the standard of the non-local academic qualifications attained by individual applicants. The benchmark for evaluation is the standard of local qualifications; the HKCAA applies the same criteria and benchmark to qualifications from different countries/regions.

Applicants for such assessments have to submit copies of their academic credentials and the relevant documents including graduation diplomas, official transcripts and public examination certificates for every stage of their education. Based on the information declared by the applicant, each application is considered individually on the totality of his educational attainment. The HKCAA will take into account different factors such as the background of institutions, the content of academic programmes, the year of studies and the admission criteria, and so on, and evaluate their general comparability with local academic qualifications. If necessary, the HKCAA may ask the applicants to provide additional information on the regions/institutions of their qualifications before making the assessment.

The assessment focuses on the overall educational attainment of individual applicants and is not meant to be an evaluation on individual institutions or their study programmes. Working experience is not taken into account in the assessment process and the HKCAA will not offer opinion on the applicant's suitability for specific posts. Normally, the assessment results will be delivered to the applicant via mail within three to four weeks after the submission of application. More complicated cases may take longer and the applicant will be notified in case of delay.

The academic opinion offered by the HKCAA has no binding effect on employers or any party. It serves only as a reference for individual applicants or persons concerned.

**Appendix II****WRITTEN ANSWER****Written answer by the Secretary for Security to Miss CHOY So-yuk's supplementary question to Question 5**

Having considered that the question raised by the Honourable Frederick FUNG is related to nuisance caused by one-woman brothels, the statistics for Kowloon and the New Territories included in our previous reply are confined to multiple cubicle apartments where prostitutes and ordinary persons are living in rented cubicles on the same premises and they share facilities inside the premises, such as the main door, common corridor, kitchen, and toilets, and so on. The police are not aware of any apartment fitting these criteria on Hong Kong Island.

**Appendix III****WRITTEN ANSWER****Written answer by the Secretary for Security to Mr James TO's supplementary question to Question 5**

Since the police have been successful in taking enforcement actions against vice establishments elsewhere, vice operators tried to explore other methods of operation, including using multiple cubicle apartments, for prostitution. Other reasons for using multiple cubicle apartments include the flexibility of short-term lease and lower operating cost. At present, the police do not observe any significant change in this type of vice activities.