

**立法會**  
**Legislative Council**

LC Paper No. CB(1)1448/03-04  
(These minutes have been seen  
by the Administration)

Ref : CB1/PL/ITB/1

**Panel on Information Technology and Broadcasting**

**Minutes of meeting**  
**held on Wednesday, 25 February 2004, at 8:30 am**  
**in Conference Room A of the Legislative Council Building**

**Members present** : Hon SIN Chung-kai (Chairman)  
Hon Howard YOUNG, SBS, JP (Deputy Chairman)  
Dr Hon David CHU Yu-lin, JP  
Dr Hon Eric LI Ka-cheung, GBS, JP  
Hon CHAN Kwok-keung, JP  
Hon YEUNG Yiu-chung, BBS  
Hon Emily LAU Wai-hing, JP  
Dr Hon LAW Chi-kwong, JP  
Hon Albert CHAN Wai-yip

**Members absent** : Dr Hon Philip WONG Yu-hong, GBS  
Hon Timothy FOK Tsun-ting, SBS, JP  
Hon MA Fung-kwok, JP

**Public officers attending** : Agenda Item IV  
  
Mrs Marion LAI, JP  
Deputy Secretary for Commerce,  
Industry and Technology  
(Communications and Technology)  
  
Mr Tony LI  
Principal Assistant Secretary for  
Commerce, Industry and Technology  
(Communications and Technology)  
  
Mr M H AU, JP  
Director-General of Telecommunications

Ms Gracie FOO  
Deputy Director- General of Telecommunications

Mr Y K HA  
Assistant Director of Telecommunications

Agenda Item V

Mr Tony LI  
Principal Assistant Secretary for  
Commerce, Industry and Technology  
(Communications and Technology)

Mr K S WONG  
Assistant Director of Telecommunications

**Attendance by  
invitation** : Agenda Item IV

Hutchison Global Communications Limited

Ms Mary CHEAH  
Senior Legal Counsel

Mr Thomas YAU  
Senior Manager  
Regulatory and Commercial

Hong Kong Broadband Network Limited

Mr Ricky WONG  
Chairman

Ms Fion FUNG  
Director  
Business Development

New World Telecommunications Limited

Mr Dumas CHOW  
General Counsel

Mr Thomas LEUNG  
Director, Marketing

PCCW Limited

Mr Jack C K SO  
Deputy Chairman and Group Managing Director

Mr Stuart CHIRON  
Director of Regulatory Affairs

Wharf T & T Limited

Mr Raymond MOK  
Vice President  
Finance and Business Administration

Ms Agnes TAN  
Director  
Legal, Regulatory and Carrier Affairs

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

**Staff in attendance** : Ms Connie FUNG  
Assistant Legal Adviser 3  
  
Ms Debbie YAU  
Senior Council Secretary (1)1  
  
Ms Sharon CHAN  
Legislative Assistant (1)6

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Action

**I Confirmation of minutes**

LC Paper No. CB(1)1044/03-04 -- Minutes of the Panel meeting  
on 12 January 2004

The minutes of the Panel meeting on 12 January 2004 were confirmed.

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

LC Paper No. CB(1)1045/03-04(01) -- List of outstanding items for  
discussion

LC Paper No. CB(1)1045/03-04(02) -- List of follow-up actions

2. Members noted that two meetings were scheduled for March 2004 as follows :

(a) Meeting on 8 March 2004

The Panel would meet with deputations and the Administration to discuss the second consultation paper on Digital Terrestrial Broadcasting in Hong Kong

(b) Special meeting on 25 March 2004

Members agreed to discuss the following items :

- (i) 2004 Digital 21 Strategy ; and
- (ii) Measures to facilitate the development of the film industry

### **III Papers issued since last meeting**

3. Members noted that no information paper had been issued since last meeting.

### **IV Second consultation paper on the review of the regulatory policy for Type II interconnection**

#### Brief introduction by the Administration

- |                                                                                                   |                                                                                                                                                                     |
|---------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| LC Paper No. CB(1)1045/03-04(03)                                                                  | -- Executive summary of the second consultation paper for review of the regulatory policy for Type II Interconnection                                               |
| LC Paper No. CB(1)1109/03-04(01)<br>( <i>tabled and subsequently issued on 26 February 2004</i> ) | -- Powerpoint presentation material on the second consultation paper for review of the regulatory policy for Type II Interconnection provided by the Administration |

LC Paper No. CB(1)1011/03-04

-- Background brief on the policy and regulation of Type II interconnection in the local fixed telecommunications network services market prepared by the Secretariat

4. With the aid of power-point presentation, the Deputy Secretary for Commerce, Industry and Technology (Communications and Technology) (DSCIT(CT)) and Assistant Director of Telecommunications briefed members on the second consultation paper for the review of Type II interconnection policy. They outlined the policy objectives and consideration of Type II interconnection and highlighted the three options of withdrawing Type II interconnection obligation at telephone exchange level in some areas and the proposed transitional arrangements. Under the Administration's preferred option, it was proposed that Type II interconnection obligation in buildings connected by at least two self-built customer access networks should be withdrawn. To reduce disruption to consumers and allow sufficient time for operators to adjust their business strategy and if required, roll out new customer access network, the Administration proposed a transitional arrangement which included a 3-year transitional period and a 3-year grandfathering period ("3+3" arrangements). During the transitional period, Type II interconnection obligation would be maintained for the affected buildings. At the end of the transitional period, only lines that had already been connected by Type II interconnection would be eligible for the 3-year grandfathering period. Upon the expiry of the grandfathering period, operators could either switch those customers connected by Type II interconnection to their self-built customer access networks or maintain service to them on commercially negotiated Type II interconnection. Members noted that the Administration had extended the consultation period to 2 March 2004.

#### Presentation by deputations

5. The Chairman welcomed the deputations to the meeting and invited them to present their views on the second consultation paper for the review of Type II interconnection policy.

*Hutchison Global Communications Limited (HGC)*  
(LC Paper No CB(1)1045/03-04(04))  
(tabled and subsequently issued on 26 February 2004)

6. Ms Mary CHEAH welcomed the proposals of withdrawing Type II interconnection obligation in buildings served by at least two self-built access networks and not extending Type II interconnection to fibre networks. She elaborated on the views of HGC as follows:

- (a) Having focused on rolling out self-built customer access network, HGC's reliance on Type II interconnection had been falling consistently. Currently, only 15% of its lines were served by Type II interconnection vis-à-vis 44% in 1999.
- (b) Pursuing a strategy on self-built networks had allowed HGC to gain better control in service provision and enabled its customers to enjoy more innovative and advanced telecommunications services.
- (c) Substantial changes in the competition landscape since the liberalization of the telecommunications market in 1995 warranted a change in the current regulatory regime.
- (d) The "3+3" arrangements were unduly long. Under such arrangements, operators currently using Type II interconnection to access customers would not be motivated to self-build their customer access networks. On one hand, they could still access their customers through the same arrangement for another six years. On the other hand, without any self-built network, they would not have to face requests from competitors for Type II interconnection. Given that the normal lead time taken to access buildings was only about six to eight months, Type II interconnection should be phased out in three years, one year being the transitional period and two years being the grandfathering period.

*(Post-meeting note: The speaking note of Ms Mary CHEAH, Senior Legal Counsel, HGC tabled at the meeting was subsequently issued to members on 26 February 2004 vide LC Paper No. CB(1)1109/03-04(02)).*

*Hong Kong Broadband Network Limited (HKBN)  
(LC Paper No. CB(1)1045/03-04(05))  
(tabled and subsequently issued on 26 February 2004)*

7. Mr Ricky WONG gave a power-point presentation to illustrate HKBN's position that the current Type II interconnection obligation was outdated and no longer relevant in the present telecommunications market. He highlighted the following salient points in HKBN's submission:

- (a) At present, four fibre-based/copper-based networks had been rolled out by operators and over 95% of all buildings in Hong Kong had been connected to two to four self-built networks.
- (b) Following the issuance of the "Code of Practice for Access Facilities of Buildings for the Provision of Telecommunications and Broadcasting Services" by the Office of Telecommunications Authority (OFTA) in 1995, developers had earmarked sufficient space to house the in-buildings telecommunications systems and

associated facilities for new buildings constructed since 1995.

- (c) While supporting the Administration's proposal to withdraw Type II interconnection obligation in buildings connected by at least two self-built customer access networks, HKBN maintained that Type II interconnection in buildings without any alternative access network should only be allowed upon proof of difficulties in accessing the essential/bottleneck facilities.
- (d) For the purpose of determining whether Type II interconnection obligation should apply to a certain building, the network of the Hong Kong Cable Television Limited (HKCTV) should be treated as an alternative customer access network as according to HKCTV's webpage, it was technically feasible to provide quality voice service via its Hybrid Fibre Co-axial network which currently passed 1.89 million households in Hong Kong.
- (e) Given the difference in nature and pace of market development, narrowband and broadband services should be considered as two separate markets.
- (f) The "3+3" arrangements were unduly long. Referring to HKBN's experience of rolling out its network in three years' time, a sunset period of six years was unreasonably long.

*New World Telecommunications Limited (NWT)*

(LC Paper No. CB(1)1045/03-04(06))

*(tabled and subsequently issued on 26 February 2004)*

8. Mr Thomas LEUNG pointed out that Type II interconnection could promote effective competition, enhance customer choice and protect consumer interests. He highlighted the following points in NWT's submission:

- (a) Type II interconnection had not discouraged network investment because the NWT's investment in the provision of voice services through self-built customer access network was about HK\$3,400 per line whereas NWT needed to pay about HK\$2,900 per line plus HK\$500 installation fee to effect Type II interconnection with PCCW.
- (b) Type II interconnection promoted the efficient use of network. Instead of duplicating PCCW's local loops, resources should be deployed to develop innovative, value-added services over the network.
- (c) Withdrawing Type II interconnection obligation would deter investments in providing services via Type II interconnection. It would also limit consumer choice, in particular those in buildings

served by only two customer access networks while more service providers in the market were ready to provide service.

- (d) The Government should regulate the levels of charges of Type II interconnection for broadband services with a view to lowering the wholesale prices to promote market competition.

*PCCW-HKT Telephone Limited (PCCW)*

*(LC Paper No. CB(1)1045/03-04(07))*

*(tabled and subsequently issued on 26 February 2004)*

9. Mr Jack SO advocated a level playing field for PCCW and other licensees and urged the Government to remove the restrictions imposed on the company's marketplace activities. He welcomed the Government's proposal to withdraw Type II interconnection in selected buildings but highlighted the following points:

- (a) After nine years of liberalization, basically all barriers to entry into the telecommunications market, including access to essential bottleneck facilities, no longer existed. The majority of consumers could now have a choice of three to four alternative customer access networks.
- (b) The "3+3" arrangements to be carried out building by building was unnecessary and not cost-effective. It might also give rise to disputes and litigation between the Government and operators.
- (c) PCCW objected to extending the unbundling requirement to broadband services because there were currently six alternative broadband networks and competition in the broadband market was now primarily facilities-based. In addition, there were no justifications to apply the same unbundling arrangement on narrowband and broadband markets since they were two distinctly separate markets at different stages of development. PCCW preferred to maintain the existing wholesale unbundling approach for broadband services.
- (d) Upon withdrawal of the compulsory unbundling requirement, PCCW would continue to provide Type II interconnection for narrowband services based on the principle of commercial negotiation.

10. On the separate issue of commercial freedom, Mr Jack SO said that PCCW was very much constrained by virtue of its being the dominant market player. For example, it had to apply for OFTA's prior approval for providing retail discounts or packages to users. As its market share in the fixed-line market had fallen below the prescribed benchmark level, PCCW had applied for a declaration of market non-dominance status. Mr SO further stressed that if the

unreasonable restrictions imposed on PCCW were lifted, consumers would likely benefit because PCCW would be able to reduce prices.

*Wharf T&T Limited (Wharf T&T)*  
(LC Paper No. CB(1)1045/03-04(08))

11. Ms Agnes TAN took members through Wharf T&T's submission which in gist contained the following points:

- (a) Wharf T&T advocated the retention of Type II interconnection in the interest of consumers, operators and market competition.
- (b) Given the scale of investment required, it might not be practicable for individual operators to bear the cost of building an alternative access network comparable to PCCW's territory-wide infrastructure. The self-built networks provided by other operators might overlap and could only serve limited market segments.
- (c) Withdrawing the Type II interconnection obligation in buildings with two direct access networks would lead to the creation of localized duopolies because there might not be enough space for the installation of the third and subsequent networks or it might not be commercially viable to do so. This would in turn lessen the choice for consumers and reduce investment and employment opportunities in the industry.
- (d) Affected customers might suffer service interruption during network migration after expiry of the proposed "3+3" arrangements.
- (e) Instead of proceeding to phase out Type II interconnection obligation, the Administration should investigate the conduct and pricing of PCCW in providing Type II interconnection services, determine Type II interconnection charges of PCCW and finalize/issue the Industry Code of Practice for the Interconnection of Broadband and Narrowband Local Access Links in accordance with the relevant provisions under the Telecommunications Ordinance (Cap 106).

Meeting with the Administration and deputations

*Policy on Type II interconnection*

12. Recalling that the main policy objectives of Type II interconnection were to encourage efficient network investment and promote competition, Mr Howard YOUNG was worried that the continuation of the existing policy might lead to the contrary effect of discouraging facilities-based competition. Mr YOUNG was pleased to note that the Administration had proposed to withdraw Type II interconnection obligation in selected buildings. However, he urged for a re-

think on the details of the preferred option. Instead of maintaining Type II interconnection obligation for buildings not connected by two or more self-built customer access networks, he proposed that the Administration should only mandate Type II interconnection in buildings with proven difficulties in accessing essential bottleneck facilities in the rollout of self-built networks.

13. Recalling that OFTA had helped co-ordinate among operators in the roll-out of customer access networks between 1999 and 2002, Mr Ricky WONG of HKBN said that similar co-ordination among operators could be arranged by OFTA to ascertain whether bottleneck problems existed in a certain building. When an operator reported to OFTA that it could not access a particular building, OFTA might approach other operators to see if they could resolve the bottleneck problem before concluding the need or otherwise for Type II interconnection.

14. On network investment, DSCIT(CT) explained that it was necessary for operators to roll out their own networks as Type II interconnection was only concerned with the "last mile" to access customers. While there might be merits in mandating Type II interconnection only in buildings with proven needs, the present proposal of making reference to the number of self-built access networks could provide an objective basis to determine whether Type II interconnection obligation should continue for individual buildings. She recapped that most of the operators which had presented their views at the meeting were supportive of this proposal.

15. On proven needs for Type II interconnection, the Director-General of Telecommunications (DG/Tel) advised that the feasibility of rolling out a second customer access network to a building might hinge on other factors such as co-operation of building management/owners' committee and commercial viability. If Type II interconnection was mandated only on the basis of whether there were bottleneck problems in the rollout of the second customer access network to a building, it might give rise to disputes and litigation between the Government and operators.

16. Noting that the policy of Type II interconnection had been implemented as a transitional measure to jump start competition in the early years of market liberalization, Mr Albert CHAN was very concerned that the continuation of the policy must be justified by sound reasons. As an operator seeking mandatory Type II interconnection from another operator might affect the interests of the latter, it was therefore vital to balance the interests of investors on both sides. To prevent an operator from taking advantage of its competitor by relying solely on Type II interconnection provided by the latter instead of rolling out self-built networks, Mr CHAN suggested that an upper limit should be imposed on the number of an operator's lines served through Type II interconnection.

17. In response, DG/Tel highlighted that for buildings with only one customer access network, Type II interconnection was an effective means to provide a choice to customers and to enhance efficient competition. In other words, if a particular operator had made a commercial decision to serve all its lines through

Type II interconnection in buildings without any alternative customer access network, this arrangement should be allowed without any upper limit as it could serve the interests of consumers and enhance market competition.

*"3+3" arrangements*

18. Mr Howard YOUNG was very concerned that the proposed "3+3" arrangements might be too long in the face of rapid technological changes. He requested the Administration to critically re-consider the transitional arrangements of the Administration's preferred option under the proposal.

19. In response, DSCIT(CT) highlighted that the purpose of the proposed arrangements was to reduce disruption to consumers and to allow sufficient time for operators to adjust their business strategy and if required, roll out new customer access networks. However, she assured members that the Administration would carefully consider the views expressed during public consultation before finalizing the transitional arrangements. In this connection, DG/Tel supplemented that the lead time of six to eight months as mentioned by HGC might refer to the period of construction of the local loops only. The entire process in rolling out the "last mile" would certainly take longer than just the construction period since it involved project planning and capital flow arrangements etc. It would also not be feasible for all projects to be undertaken during the same period.

20. On the cost-effectiveness of implementing the proposed "3+3" arrangements, Mr YEUNG Yiu-chung enquired about the implications of the arrangements on OFTA's manpower and financial resources. In response, DG/Tel advised that the networks of the four competing operators would cover about 45% of residential units in Hong Kong by mid-2004 and there were only about 20 000 multi-storey buildings to which alternative customer access networks might be rolled out. In view of these, DG/Tel anticipated that OFTA could cope with the workload in drawing up and updating the list of affected buildings (i.e. buildings served by at least two self-built networks) annually. He also said that the additional work would be absorbed by the existing staff of OFTA and no increase in resources would be sought for this purpose.

21. Mr Jack SO of PCCW however submitted that the workload incurred in conducting the review building by building on an annual basis could be very onerous, not to mention the disputes and litigation which might arise between the Government and operators.

22. Regarding Wharf T&T's view that there was absolutely no incentive for PCCW to come to agreement on Type II interconnection on fair terms after the expiry of the proposed "3+3" arrangements, Ms Emily LAU was concerned about the likelihood of such a scenario and whether chaos to customers would arise during network migration. Mr Jack SO of PCCW reiterated that PCCW would continue providing Type II interconnection upon the expiry of the proposed "3+3" period but the level of charges must then be agreed upon commercial

negotiation.

23. In reply to Ms Emily LAU's enquiry about PCCW's market dominance, Mr Jack SO advised that in the wake of keen competition, PCCW no longer had any market dominance in the fixed-line market. PCCW was seeking OFTA's approval to declare it a non-dominant player. If approved, PCCW would be in a position to reduce the level of prices for voice telephony services and offer retail discounts and packages to customers in the same way as its competitors.

24. Ms Mary CHEAH of HGC also agreed that the proposed "3+3" arrangements were too long as the "last mile" could be rolled out in some six to eight months. As most customers' contract lasted for 12 to 18 months, there should be sufficient time for operators to migrate their customers currently connected through Type II interconnection to self-built networks. No service interruption as such would result even under HGC's proposed transitional arrangements of 3 years.

*Investment in the telecommunications industry*

25. Mr Jack SO of PCCW considered that the issue in question was a debate between investors and non-investors for the "last mile". On the one hand, an operator would have no alternative but to roll out its self-built network if it wished to access the customers in a building already connected to two self-built networks. On the other hand, it was possible that operators might deliberately withhold network investment for buildings with no alternative access network in order to perpetuate the mandatory unbundling of the local loops of the incumbent operator. Ms Mary CHEAH of HGC shared the view that the current issue was about decisions to invest or not to invest.

26. Ms Agnes TAN of Wharf T&T however stressed that notwithstanding any Type II interconnection arrangement, operators had invested heavily in rolling out networks up to point of PCCW's telephone exchange even if they used Type II interconnection. Moreover, they had to pay high installation fees and monthly recurrent charges to PCCW for providing Type II interconnection. These expenses could have the effect of driving up the level of tariff payable by consumers. As such, she considered that consumer interests were at stake in the current debate.

27. Mr CHAN Kwok-keung considered it unfair for some operators to rely on Type II interconnection to provide services only in areas where they could make profits. He nevertheless appreciated the work of HKBN and the fact that it had rolled out self-built networks to access its customers directly.

28. In this connection, Mr Dumas CHOW of NWT remarked that although half of the company's lines were served by self-built customer access network, it remained questionable as to whether it was in the interest of consumers and cost-effective to duplicate resources in rolling out the "last mile" to reach customers. Mr Raymond MOK of Wharf T&T stressed that the charges for Type II

interconnection were in no way lower than the cost of network investment. He highlighted that out of an investment of HK\$4.5 billion so far, half of the amount had been spent on leasing lines from competitors for Type II interconnection. In reply to some members, Mr Raymond MOK advised that the HK\$4.5 billion in question did not include any investment in property development. He also highlighted that the company's highly intelligent copper-based network was capable of supporting new and innovative services to meet the demand of their customers mainly in commercial buildings.

29. Mr Ricky WONG of HKBN maintained his view that consumer interests in terms of choice and price could be best served under facilities-based competition. He remarked that users in Hong Kong were able to use the service of the biggest Internet Protocol network in the world due to operators' willingness to invest in the necessary infrastructure. Mr WONG considered that the level of charge for Type II interconnection set at HK\$42 per line per month had become a disincentive to network investment.

30. On investment initiatives, Ms Emily LAU was keen to ensure that Hong Kong would not lag behind its competitors in the level of investment in the telecommunications industry while maintaining efficient competition and consumer choice. In this regard, DSCIT(CT) reiterated that over the years, competing operators had rolled out self-built customer access networks which had, or would soon have, coverage of 45% of the residential units in Hong Kong. The Administration was aware that maintaining the current interconnection arrangement might have the effect of discouraging facilities-based investment in certain buildings to which it would be technically feasible and commercially viable to roll out alternative customer access networks. Having examined the pros and cons of different approaches, the Administration considered that its present proposal of withdrawing Type II interconnection obligation in buildings connected by at least two self-built customer access networks could best serve the Government's objectives to encourage network investment and ensure consumer choice. As regards the Consumer Council's views, DSCIT(CT) said that the Consumer Council had indicated that they would provide a submission.

*(Post-meeting note: Submissions from Hong Kong Telecommunications Users Group (CB(1)1045/03-04(09) and Consumer Council (CB(1)1215/03-04(01) have been subsequently circulated to members on 8 March 2004)*

#### *Service coverage*

31. Referring to the printed advertisements appended to Wharf T&T's submission on the deprivation of consumer choice once the Type II interconnection obligation was withdrawn, Mr Albert CHAN was gravely concerned that HKCTV, under the same group of companies as Wharf T & T, had refused to provide service in less profitable and remote regions of Hong Kong. Mr CHAN also shared the view that the network of HKCTV (and possibly that of the two power companies) should be open for Type II interconnection.

32. Mr CHAN Kwok-keung and Ms Emily LAU echoed Mr Albert CHAN's concern about the lack of HKCTV's coverage in certain areas of Hong Kong. Mr CHAN enquired whether PCCW could cease to provide Type II interconnection if its copper-based customer access network was upgraded to a fibre-based one. In reply, DG/Tel confirmed that under the present proposal, Type II interconnection obligation would not be extended to fibre-based networks. On the suggestion of making available HKCTV's network for Type II interconnection, DG/Tel pointed out that in accordance with the existing Type II interconnection policy, HKCTV had the obligation to provide interconnection to the coaxial cable portion of its network to other operators for effecting Type II interconnection.

33. In this regard, Mr Raymond MOK of Wharf T&T said that HKCTV was a corporate entity the operation of which was independent of Wharf T&T. However, as far as he understood, the network of HKCTV was supported by a different technology to cater for television broadcasting service instead of telecommunications services. In reply to the Chairman, Mr MOK said that notwithstanding the availability of broadband services, HKCTV at present did not provide any voice telephony services.

34. Summing up, the Chairman thanked the deputations for submitting their views and requested the Administration to revert to the Panel on the way forward in the first half of 2004.

Admin

## V Reduction of licence fees for the carrier licences

LC Paper No. CB(1)1045/03-04(10)	-- Reduction of Licence Fees under the Telecommunications Regulations (Cap. 106A) and the Telecommunications (Carrier Licences) Regulation (Cap. 106V)
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35. Members noted the proposal to introduce amendment regulations to reduce the annual licence fees for fixed carrier licences that permit the provision of external services only and for mobile carrier licences; as well as for public radiocommunications services licences. The Administration proposed to reduce the annual licence fees for mobile stations from HK\$24 to HK\$20 per mobile station; and for fixed carrier licence for the provision of external services only from HK\$500,000 to HK\$200,000 with effect from 1 May 2004. Members raised no objection to the proposal.

**VI Any other business**

36. There being no other business, the meeting ended at 10:30 am.

Council Business Division 1  
Legislative Council Secretariat  
2 April 2004