

立法會 *Legislative Council*

立法會LS69/05-06號文件

2006年5月19日內務委員會會議文件

2006年5月12日及13日在憲報刊登的附屬法例
法律事務部報告

提交立法會會議席上省覽的日期 : 2006年5月17日
作出修訂的限期 : 2006年6月14日(若議決延期, 則
可延展至2006年7月5日)

第I部 收費調整

《廣播條例》(第562章)

《2006年廣播(調整牌照費)規例》(第98號法律公告)

第98號法律公告修訂《廣播(牌照費)規例》(第562章, 附屬法例A)附表1、2、3及4, 以 ——

- (a) 調高本地免費電視節目服務周年牌費的固定費用並調低其可變動費用;
- (b) 調高本地收費電視節目服務周年牌費的固定費用;
- (c) 調低甲類非本地電視節目服務的周年牌費;
- (d) 調高乙類非本地電視節目服務周年牌費的固定費用;
- (e) 調低甲類其他須領牌電視節目服務周年牌費的固定費用; 及
- (f) 調高乙類其他須領牌電視節目服務周年牌費的固定費用。

2. 議員可參閱影視及娛樂事務管理處於2006年5月12日發出的立法會參考資料摘要(檔號: CTB/B/203/14(05)VI), 以瞭解有關的背景資料。收費調整介乎-24%至13%不等, 有關詳情載於立法會參考資料摘要附件B內。各項成本計算載於附件C。現行收費自2001年2月起生效, 而此規例則將於2006年7月7日起實施。

3. 資訊科技及廣播事務委員會於2006年4月6日的會議上考慮收費建議。據政府當局所述, 當局在諮詢各現有持牌機構時, 已解釋建議

調整收費的原因。委員察悉，兩家本地免費電視節目服務持牌機構及3家本地收費電視節目服務持牌機構反對加費。該等機構提出的理由及政府當局的回應綜述於立法會參考資料摘要第16至18段。由於建議符合政府收回提供服務成本的現行政策，出席該事務委員會會議的委員對建議並無異議。

4. 香港有線電視有限公司及電訊盈科有限公司曾提交意見書提出其反對加費的理由，該等意見書載於附件(只備英文本)。據立法會參考資料摘要所述，本地收費電視節目服務周年牌費的固定費用將增加12%，由1,371,000元增至1,533,000元，以彌補上漲的成本，包括委託顧問公司進行市場及經濟分析，配合實證為本的方法處理規管事宜所需的成本。

《消防條例》(第95章)

《2006年消防(裝置承辦商)(費用調整)規例》(第99號法律公告)

《2006年消防處(報告及證明書)(費用調整)規例》(第100號法律公告)

《危險品條例》(第295章)

《2006年危險品(一般)(費用調整)規例》(第101號法律公告)

《木料倉條例》(第464章)

《2006年木料倉(費用調整)規例》(第102號法律公告)

5. 第99號法律公告修訂《消防(裝置承辦商)規例》(第95章，附屬法例A)，以調高 ——

- (a) 就消防裝置承辦商的註冊及為他們而設的筆試及面試所須繳付的費用；
- (b) 就視察和再度視察他們使用的工場和新工場所須繳付的費用；及
- (c) 就更改他們的註冊姓名或名稱或註冊地址及作出更換董事、僱員或合夥人的通知所須繳付的費用。

該等費用將會增加10%至20%。上次費用調整是在2001年2月。

6. 第100號法律公告修訂《消防處(報告及證明書)規例》(第95章，附屬法例C)第3條的列表，以 ——

- (a) 調低就消防處所處理的火警或其他災難的報告所須繳付的費用；及
- (b) 調高就發出符合若干法定條文的規定所需的證明書而須向消防處處長繳付的費用。

就火警或其他災難的報告所須繳付的費用將調低22%，而其他費用則增加1%至20%。該等費用上次調整是在1997年4月。

7. 第101號法律公告修訂《危險品(一般)規例》(第295章，附屬法例B)第183(1)條的表，以調高——

- (a) 就批給或續發有關貯存、製造及運送若干類危險品的牌照或許可證所須繳付的費用；及
- (b) 就發出該等牌照或許可證的複本及更改、增訂或批註該等牌照或許可證所須繳付的費用。

該等費用將增加10%至21%。上次費用調整是在1995年3月。

8. 第102號法律公告修訂《木料倉規例》(第464章，附屬法例A)的附表，以——

- (a) 調低就經營木料倉的牌照續期所須繳付的費用；及
- (b) 調高就發給該牌照、牌照轉讓或發給牌照複本及修訂牌照條件或詳情所須繳付的費用。

牌照續期的費用將調低10%，而其他費用則提高11%至15%。該等收費上次調整是在2001年2月。

9. 議員可參閱保安局於2006年5月發出的立法會參考資料摘要(檔號：SEC 9/6/10)，以瞭解有關的背景資料。上述調整是因應最近一次成本檢討的結果而作出，調整詳情載於立法會參考資料摘要附件E。調高收費的目的，是要在3至7年內收回全部成本。各規例均會於2006年7月7日起實施。

10. 政府當局曾藉傳閱文件的方式並於2005年12月6日的保安事務委員會會議上，就調整保安局轄下不會直接影響民生或一般營商活動的服務收費的建議諮詢該事務委員會。該等建議包括上述規例所載的費用調整。委員並無提出任何疑問。

第II部 生效日期公告

《2006年行政長官選舉及立法會選舉(綜合修訂)條例》(2006年第10號) 《〈2006年行政長官選舉及立法會選舉(綜合修訂)條例〉(生效日期)公告》 (第103號法律公告)

11. 第103號法律公告指定2006年5月13日為《2006年行政長官選舉及立法會選舉(綜合修訂)條例》(2006年第10號)開始實施的日期。該條例主要處理政制發展專責小組第五號報告中提出的問題，制定只有一名行政長官候選人獲有效提名時的選舉規定，以及提出有關選舉委員會選民的修訂。

12. 據政府當局為政制事務委員會2006年1月16日會議提供題為“2007年行政長官選舉”的文件(立法會CB(2)870/05-06(02)號文件)所載，該條例將包括一些技術性質的修訂，以反映合資格成為選舉委員會選民的團體或其所屬組織的名稱更改，並刪除已不再存在的團體或擁有附屬團體的組織。政府當局亦在文件中表示，該條例須於2006年5月16日(即登記成為2006年選舉委員會界別分組選民的截止日期)前通過生效。

連附件

立法會秘書處
助理法律顧問
黃思敏
2006年5月18日



有線電視

附件
Annex

CABLE TV

Desmond S.H. Chan
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13 May 2006

The Hon. Mrs. Rita Fan Hsu Lai-tai, GBS, JP
President
Legislative Council
8 Jackson Road, Central
Hong Kong

By fax & by hand
(Fax no. 2877 9600)

Dear Mrs. Fan,

Broadcasting (Revision of Licence Fees) Regulation 2006


By its letter dated 12 May, the Administration told us that the above regulation would be tabled at the Legislative Council for negative vetting on 17 May.

We would like to draw Members' attention to the fact that the television industry has reservations about the proposed revision. Detailed grounds for HKCTV's objection, which have been forwarded to the Administration, are replicated on the attached.

We should be most grateful if Members of the Council would take account of our concerns in deliberating the above regulation.

Thank you.

Yours sincerely,
Hong Kong Cable Television Limited



Desmond S.H. Chan

Encl.



Hong Kong Cable Television Limited 香港有線電視有限公司
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**HKCTV's Objection to the Proposed Increase of
License Fees for Television Programme Service Licences**

1. Since 1997, all industries have been suffering from the economic doldrums. The pay TV industry is of no exception. Unlike some of its relating sectors whose licence fees or other government charges have been reduced (more than once in some cases) during this difficult period of time¹, the pay TV industry has not received similar assistance.
2. Following the increase in competition on various fronts (including contents and people) in the pay TV market, the investments in and costs for running our business have been rocketing. Despite the recent improvement of economy, it is unlikely that our financial burden would abate in near future given the competition has shown no sign of abating.
3. We understand from the Administration that the proposed fee increase is attributable to the competition and firewall complaints. We have difficulty in accepting this contention. The competition provisions in the Broadcasting Ordinance and the firewall provisions in the licences of TVB and Galaxy were put in place in July 2000, roughly 7 months before Cap. 526A took effect. Logically, the Government must have taken account of the costs of implementation of the competition and firewall provisions when devising the new charging formula under Cap. 526A, to ensure that the licence fees collected (especially the fixed fee component) are large enough to cover these implementation costs.
4. The Government has announced its plan to set up a single, lean and skilled, and responsive regulator overseeing the entire electronic communications sector, and to examine whether the regulator should further reduce its monitoring and rule-making role, keeping regulation to a minimum with greater focus on ensuring fair competition in the converging communications market. Naturally, this plan will significantly bring down the overall regulatory costs. Thus, to save the trouble of re-adjusting the licence fees in near future, the proposed increase of licence fees should be withheld pending the study of the regulatory convergence.

¹ Please see the attached Appendix for examples of fee reduction.



Examples of Reduction of Licence Fees/ Government Charges

Telecom Sector

May 1999	PRS licence fee reduced from \$75 to \$55 per station
May 2000	PRS licence fee reduced from \$55 to \$30 per station
May 2002	PRS/ PNETS/ mobile carrier licence fee reduced from \$30 to \$24 per station
May 2003	Fixed carrier annual licence fee reduced from \$1m to \$0.5m
May 2004	Fixed carrier annual licence fee reduced from \$0.5m to \$0.2m PRS/ PNETS/ mobile carrier licence fee reduced from \$24 to \$20 per station
May 2005	PRS/ PNETS/ mobile carrier licence fee reduced from \$20 to \$18 per station

Film Sector

Jan 2002	Five fee items relating to the release of films reduced by 3% to 77.6% under the Film Censorship Regulations
June 2005	Licence fees for producing special effects in film production and entertainment programmes reduced by 7.1% to 10.7%



Stuart Z. Chiron
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By Fax 2509 0775 and by Post

The Honourable Ms Miriam Lau Kin-ye, GBS, JP
The Chairman
House Committee
Legislative Council
Legislative Council Building
8 Jackson Road
Central
Hong Kong

18 May 2006

Dear Ms Lau,

Broadcasting (Revision of Licence Fees) Regulation 2006

We have been informed of the HKSAR Government Administration's intention to table the licence fee increase proposal for domestic pay television programme service for negative vetting on 17 May 2006.

We would like to highlight that PCCW has serious concerns about the proposed 11.8% licence fee increase and have indeed forwarded our comments to the Administration. A summary of our key concerns is replicated per the attached. PCCW would be most grateful if the Honourable Members of the Council would take into account our concerns in the deliberation of the licence fee increase proposal. We would respectfully request that the proposal not to be passed and that a sub-committee be set up to review the justifications for the licence fee increase.

Thank you.

Yours sincerely,


Stuart Chiron
Director of Regulatory Affairs

Att'd 2 pages

cc. The Honourable Mr Sin Chung-kai, JP (Fax 2121 0420)



Summary of PCCW's objection to the Proposed Licence Fee Increase for Domestic Pay Television Programme Service Licence

1. Other Market Benchmarks

PCCW notes that the licence fee in the telecommunications industry has not been increased for more than 10 years. For the fixed line services, the quantum of the licence fee has remained unchanged since 1995 whereas for the mobile service licence, the licence fee has been reduced by 73% since 1995¹.

It is therefore not uncommon for the liberalised industry to benefit from decreasing regulatory costs on a per licensee basis in the form of reduced licence fee. Again, this would suggest that any licence fee increase needs to be fully described and supported with firm data and clear evidence.

2. Income from licensees

The proposed licence fee increase is inconsistent with the growth of licence revenues, and should not occur. Whilst the number of domestic pay TV licensees has remained the same in 2004 and 2005, the number of subscribers, on which the variable fee is payable, has increased from 1,000,000 to the market estimate of 1,200,000 bringing Television and Entertaining Licensing Authority (TELA) / Broadcasting Authority (BA) an additional income of \$800,000 in 2005. It is forecasted that the pay television market will continue to grow thus increasing the associated income of TELA/BA.

3. Consumer Price Index ("CPI")

CPI provides a barometer of inflation and is very often used as a benchmark factor for public bodies' fee/charge increase. The composite CPI records a modest increase of only 1.7% on all items from the period November 2004 to November 2005. The proposed licence fee increase of 12% is therefore significantly higher than the general CPI. If the CPI were to be used, the first requirement would be for TELA/BA to fully and convincingly explain why licence fees were not decreased for the recent period when the CPI was negative. It would be irrational to use this indicator only when it supports a proposed action.

4. Penalty Charges

PCCW notes that whilst the number of complaints registered with TELA/BA increased in 2005, the quantum of the penalty has remained small even for licensees who repeatedly commit licence breach. This leniency undermines the deterrence effect of the penalty and indirectly increases the unnecessary additional workload arising from compliance investigation.

¹ The annual PMRS/Mobile licence fee has been reduced several times since 1995 as follows: Schedule 3 to the Telecommunications (Carrier Licences) Regulations (Cap. 106V) - Part 3 Mobile Carrier Licences Other Than Mobile Carrier (Restricted) Licence

	1995	1999	2000	2002	2004
First 200 mobile station (\$)	15,000	11,000	6,000	4,800	4,000
Additional 100 mobile station (\$)	7,500	5,500	3,000	2,400	2,000

The current licence fee has been reduced by 73% as compared with that in 1995.

03/02/06



5. **Transparency**

PCCW notes that an internal costing exercise has been conducted by TELA prior to the tabling of this licence fee increase proposals to the broadcasting licensees. However no detailed information has been provided in the proposal (eg. licence fee and other sources of income, increased expenditure, additional workload, level of increased manpower, external consultancy fee etc.) to facilitate PCCW to understand the full justifications for the proposed fee increase. In the name of transparency and reasoned decision making, PCCW would ask that all this material and data be released to the public.

Based on the foregoing, PCCW is of the view that the domestic pay television programme service licence fee should be reduced. Any proposal to increase the fees should be fully supported and vetted in a transparent proceeding.

- End -