

立法會
Legislative Council

LC Paper No. CB(1)1884/05-06
(These minutes have been seen
by the Administration)

Ref : CB1/SS/1/05

Subcommittee on Broadcasting (Revision of Licence Fees) Regulation 2006

**Minutes of the first meeting held on
Tuesday, 30 May 2006, at 10:45 am
in Conference Room B of the Legislative Council Building**

Members present : Hon SIN Chung-kai, JP (Chairman)
Hon Fred LI Wah-ming, JP
Hon Howard YOUNG, SBS, JP
Hon Emily LAU Wai-hing, JP
Hon Ronny TONG Ka-wah, SC

Member absent : Hon Jasper TSANG Yok-sing, GBS, JP

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

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

Ms Lorna WONG
Commissioner for Television and Entertainment Licensing

Mr PO Pui-leong
Assistant Commissioner for Television and Entertainment
Licensing (Broadcasting)

Clerk in attendance : Ms Connie SZETO
Chief Council Secretary (1)6

Staff in attendance : Ms Bernice WONG
Assistant Legal Adviser 1

Ms Debbie YAU
Senior Council Secretary (1)1

Ms Guy YIP
Council Secretary (1)1

I. Election of Chairman

Mr Fred LI, the member who had the highest precedence in the Council among all members of the Subcommittee, presided over the election of the Chairman of the Subcommittee. He invited nominations for the chairmanship of the Subcommittee.

2. Mr SIN Chung-kai was nominated by Ms Emily LAU and seconded by Mr Howard YOUNG. Mr SIN accepted the nomination. There being no other nominations, Mr SIN Chung-kai was declared Chairman of the Subcommittee. Mr SIN then took over the chair.

II. Meeting with the Administration

(LC Paper No. CB(1)1612/05-06(01) — Mark-up copy of Broadcasting (Revision of Licence Fees) Regulation 2006 (L.N.98 of 2006) gazetted on 12 May 2006

Ref: CTB/B/203/14(05) VI — Legislative Council Brief on Broadcasting (Revision of Licence Fees) Regulation 2006 issued by the Television and Entertainment Licensing Authority

LC Paper No. LS 69/05-06 — Legal Service Division Report on Subsidiary Legislation gazetted on 12 and 13 May 2006

LC Paper No. CB(1)1191/05-06(03) — Information paper on “Revision of Licence Fees under the Broadcasting (Licence Fees) Regulation (Cap. 562A)” provided by the Administration for the meeting of the Panel on Information Technology and Broadcasting (ITB Panel) on 6 April 2006

LC Paper No. CB(1)1612/05-06(02) — Background brief prepared by the Legislative Council Secretariat (annexed with the major views expressed by the licensees on the proposed revision in fees and the Administration’s response, extract of draft minutes of meeting of ITB Panel on 6 April 2006, and submissions from Hong Kong Cable Television Limited and PCCW Media Limited dated 13 May and 18 May 2006 respectively.)

3. The Subcommittee deliberated (Index of proceedings attached at **Appendix**).

Invitation for submissions and meeting with deputations

Clerk 4. The Subcommittee agreed to invite those television programme service licencees (as listed in Appendix II of the Members’ brief) affected by the proposed increase in licence fees to give views on the Broadcasting (Revision of Licence Fees) Regulation 2006 (the Regulation).

Clerk 5. The Subcommittee further agreed to meet with deputations and the Administration on Thursday 8 June 2006 at 2:30 pm.

Extension of scrutiny period

Clerk 6. Members agreed to extend the scrutiny period of the Regulation from 14 June 2006 to 5 July 2006. They noted that the Chairman would move the relevant motion at the Council meeting to be held on 7 June 2006.

Referral to Panel on Information Technology and Broadcasting

- Clerk 7. Ms Emily LAU expressed concern about the complaint handling mechanism of the Television and Entertainment Licensing Authority (TELA) and suggested that related issues, including the criteria and factors taken into account by TELA in screening complaints against licensees and guidelines in handling complaints be referred to the Panel on Information Technology and Broadcasting for appropriate follow-up.

Follow-up actions to be taken by the Administration

- Admin 8. To facilitate members and licensees in understanding the full justifications for the fee increases, the Administration was requested to provide information relating to TELA for the past five years in respect of each of the four categories of television programme service licence, as follows:

- (a) income from licence fees and other sources with details on numbers of channels and subscribers;
- (b) breakdown expenditure by major items, including staff cost, increase in workload and changes in manpower requirement, and expenditure on external consultancy fee etc.; and
- (c) the extent of cost recovery in levying the licence fees.

III. Any other business

9. There being no other business, the meeting ended at 11:45 am.

**Proceedings of the first meeting of the
Subcommittee on Broadcasting (Revision of Licence Fees) Regulation 2006
on Tuesday, 30 May 2006, at 10:45 am
in Conference Room B of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000000-000049	Mr Fred LI Ms Emily LAU Mr Howard YOUNG Mr SIN Chung-kai	Election of Chairman	
000050-000415	Chairman Ms Emily LAU	Members' agreement to – (a) invite TV programme service licencees affected by the increase in licence fees to give views on the Broadcasting (Revision of Licence Fees) Regulation 2006 (the Regulation) and/or to meet with the Subcommittee on Thursday, 8 June 2006 at 2:30 pm (b) extend the scrutiny period of the Regulation from 14 June 2006 to 5 July 2006	(a) The Clerk to take action as per paragraphs 4 and 5 of the minutes (b) The Clerk to take action as per paragraph 6 of the minutes
000416-000815	Chairman Administration	Administration's briefing on the Regulation (File Ref.: CTB/B/203/14(05)VI)	
000816-001502	Mr Fred LI Administration	(a) Enquiries on – (i) the interval for reviewing the licence fees; (ii) the requirement for the domestic free TV	

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		<p>programme service licensees to implement digital terrestrial television (DTT) broadcasting; and</p> <p>(iii) details in the calculation of costs incurred by the Television and Entertainment Licensing Authority (TELA) in administering the regulatory regime for television services and calculation of fixed and variable fees of the licence fees</p> <p>(b) The Administration's advice, as follows -</p> <p>(i) The review of licence fees normally conducted once every four years;</p> <p>(ii) The two domestic free TV programme service licensees had agreed to the licence conditions which included the requirement to implement DTT broadcasting when they accepted their licences; and</p> <p>(iii) The costs incurred by TELA in administering the regulatory regime would be recovered from license fees. The fixed fee reflected the cost</p>	

Time marker	Speaker	Subject(s)	Action Required
		<p>incurred in general licence administration, while the variable fee primarily reflected the cost of handling complaints which related to the number of viewers served or the number of programme channels provided, as appropriate, by the licensees</p>	
001503-001706	Mr Fred LI Administration	<p>(a) Member's enquiry/concern, as follow –</p> <ul style="list-style-type: none"> (i) Whether complaints handled by TELA included the programme content and marketing/sale practices of licensees; and (ii) Delay in carrying out the current review of licence fees <p>(b) The Administration's advice, as follows -</p> <ul style="list-style-type: none"> (i) The Broadcasting Authority (BA) was empowered to handle complaints in relation to non-compliance with the Generic Code of Practice on Television Programme Standards (the Code) issued pursuant to the Broadcasting Ordinance (BO) (Cap. 562). It did not have statutory power 	

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		<p>to deal with complaints relating to marketing/sale practices of licensees. Such complaints were referred to appropriate agencies for follow-up;</p> <p>(ii) Given the large number of TV programme channels available, instead of monitoring the programme content proactively, the BA had been relying on a complaint-driven system in regulating broadcast contents; and</p> <p>(iii) As TELA had taken longer time than originally envisaged in consulting the licensees and working out the proposed fee revision with the relevant bureaux, there was some slippage in the current round of fee review</p>	
001707-002136	Mr Howard YOUNG Administration	<p>(a) Member's support for the cost recovery principle in setting licence fees</p> <p>(b) Member's concern about fairness for the licensees to bear the costs relating to formulation of policy for the long-term development of the broadcasting industry, such as the implementation of DTT</p>	

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		<p>(c) The Administration's clarification, as follows -</p> <p>(i) The cost recovery principle aimed at recovering the full costs in administering the regulatory regime for the provision of television programme services; and</p> <p>(ii) Costs incurred by the Administration for the policy development of DTT were not recovered from licence fees</p>	
002137-003014	Mr Ronny TONG Administration	<p>(a) Member's concern that a cost recovery principle based on, inter alia, the number of complaints handled by TELA might result in self-censorship in programme content by licensees with a view to minimizing complaints</p> <p>(b) Member's views, as follows -</p> <p>(i) Costs relating to the investigation into non-compliance with licence conditions should be recovered from the offenders via fines or forfeitures; and</p> <p>(ii) It would be unfair for all licensees to share out the costs in handling complaints when most of them might have been</p>	

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		<p>made against one or two particular licensees</p> <p>(c) The Administration's advice, as follows -</p> <p>(i) Despite enhancement in the efficiency of TELA, due to the need to regulate market competition issues, TELA had to deploy a lot of resources in handling complaints;</p> <p>(ii) The variable fee of the licence fee, which primarily reflected the costs of handling complaints, was calculated on the basis of the number of viewers served/channels provided by the licensees as this would relate to the number of complaints; and</p> <p>(iii) While the BA did not preview any programmes, licensees were required to comply with the Code which had set out the programme standards, such as ensuring due impartiality in factual programmes dealing with matters of public policy or controversial issues</p>	

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003015-003120	Ms Emily LAU Administration	<p>(a) Member's view that it was essential for the Administration to ensure a level-playing field in the broadcasting industry and put in place legislation to promote fair competition in the market</p> <p>(b) The Administration's advice that in general, licensees had accepted BA's rulings in respect of competition-related complaints</p>	
003121-003913	Ms Emily LAU Administration	<p>(a) Member's concern about the complaint handling mechanism of TELA and editorial independence of the licensees</p> <p>(b) The Administration's advice, as follows –</p> <p>(i) TELA would screen out trivial and frivolous complaints; and</p> <p>(ii) licensees were required to comply with the Code in respect of personal view programmes</p> <p>(c) Member's suggestion to refer issues relating to TELA's complaint handling mechanism to the Panel on Information Technology and Broadcasting</p>	The Clerk to take action as per paragraph 7 of the minutes

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003914-004903	Mr Ronny TONG Administration	<p>(a) Member's view, as follows –</p> <ul style="list-style-type: none"> (i) The Government had the responsibility to ensure the provision of broadcasting services to achieve the objectives of protection of freedom of speech and widening programme choice for the community. Hence, the Administration should not seek to recover the regulatory costs fully from licencing fees; (ii) Consideration should be given to recover the costs relating to the investigation into non-compliance with licence conditions from the offenders via fines or forfeitures; and (iii) The fee increase might add barriers to discourage potential operators to access the market <p>(b) The Administration's explanation, as follows –</p> <ul style="list-style-type: none"> (i) It is an established Government policy that fees should in general be set at levels sufficient to recover the full costs of providing the services. This helped sustain the 	

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		<p>regulatory framework for the broadcasting industry. The suggestion in item (a)(ii) was not in line with the existing licence fee charging mechanism;</p> <p>(ii) The current regulatory framework aimed at, among other things, ensuring that licensees would observe the commonly accepted principles of broadcasting, including maintaining decency, impartiality and fairness, accuracy in news, and protection of minors, and the arrangement that the regulator recovered the costs of enforcing the regulatory framework were on a par with international best practice. The regulatory framework was operating smoothly. In the telecommunications sector, licensees also paid licence fee to enable the regulator to enforce the regulatory framework under which the licensees operated; and</p> <p>(iii) The fee increase only constituted a very small proportion of the operating costs of the licensees, and hence was not expected to have</p>	

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		significant impact on their operation	
004904-005559	Chairman Administration	(a) Request for the Administration to provide information relating to TELA for the past five years in respect of administering the regulatory regime for television programme services (b) The Administration's advice that the total licence fee payable by all licensees was about \$24.8 million which was far less than the royalties of \$264 million collected before the enactment of the BO in 2000	The Administration to take action as per paragraph 8 of the minutes