

立法會
Legislative Council

LC Paper No. CB(1)1230/08-09
(These minutes have been seen by
the Administration)

Ref : CB1/SS/5/08

**Subcommittee on Subsidiary Legislation to Enable the Release of Spectrum for
Expansion of the Second Generation Mobile Service and Mobile TV Services**

**Minutes of the first meeting on
Friday, 27 February 2009, at 10:45 am
in Conference Room B of the Legislative Council Building**

Members present : Dr Hon Samson TAM Wai-ho, JP (Chairman)
Hon Timothy FOK Tsun-ting, GBS, JP
Hon LEE Wing-tat
Hon WONG Ting-kwong, BBS
Hon Ronny TONG Ka-wah, SC
Hon Paul TSE Wai-chun

Public Officers attending : Agenda Item II

Mr Alan SIU, JP
Deputy Secretary for Commerce and Economic Development
(Communications and Technology)

Ms Ida LEE
Principal Assistant Secretary for Commerce and Economic
Development (Communications and Technology)

Mr Y K HA
Deputy Director-General of Telecommunications
Office of the Telecommunications Authority

Mr Chaucer LEUNG
Head, Regulatory Affairs Branch
Office of the Telecommunications Authority

Ms Natalie WU
Senior Legal Adviser
Office of the Telecommunications Authority

Mr Alan CHONG
Senior Government Counsel
Department of Justice

Clerk in attendance : Ms YUE Tin-po
Chief Council Secretary (1)3

Staff in attendance : Ms Clara TAM
Assistant Legal Adviser 9

Ms Annette LAM
Senior Council Secretary (1)3

Action

I. Election of Chairman

Dr Samson TAM was elected Chairman of the Subcommittee.

II. Meeting with the Administration

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|------------------|--|
| (L.N. 20 of 2009 | -- Telecommunications (Designation of Frequency Bands subject to Payment of Spectrum Utilization Fee) (Amendment) Order 2009 |
| L.N. 21 of 2009 | -- Telecommunications (Level of Spectrum Utilization Fees) (Second Generation Mobile Services) (Amendment) Regulation 2009 |
| L.N. 22 of 2009 | -- Telecommunications (Determining Spectrum Utilization Fees by Auction) (Amendment) Regulation 2009 |

LC Paper No. CB(1)891/08-09(01) -- Marked-up copy of Telecommunications (Designation of Frequency Bands subject to Payment of Spectrum Utilization Fee) (Amendment) Order 2009, Telecommunications (Level of Spectrum Utilization Fees) (Second Generation Mobile Services) (Amendment) Regulation 2009 and Telecommunications (Determining Spectrum Utilization Fees by Auction) (Amendment) Regulation 2009 as amended by L.N. 20, 21 and 22 of 2009

Ref: CTB(CR)9/19/14(08) Pt.4 -- Legislative Council Brief on "Framework for development of mobile television services" issued by the Commerce and Economic Development Bureau

LC Paper No. CB(1)326/08-09(03) -- Administration's paper on the "Assignment of the available radio spectrum in the 1800 MHz Band" issued for the meeting of the Panel on Information Technology and Broadcasting on 8 December 2008

LC Paper No. LS38/08-09 -- Paragraphs 1 to 11 of the Legal Service Division Report

LC Paper No. CB(1)891/08-09(02) -- Background brief prepared by the Legislative Council Secretariat)

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

Admin 3. The Administration undertook to provide relevant information on the experience of South Korea and the United Kingdom on the launch of mobile TV services including the types and scope of services, licensing regime and arrangements, mode of operations as well as reasons for their success/failure, and ascertain whether there were any programme requirements on the percentage of locally produced programmes on mobile TV services in such places.

III. Any other business

Extension of scrutiny period

4. Members agreed to extend the scrutiny period of the Telecommunications (Designation of Frequency Bands subject to Payment of Spectrum Utilization Fee) (Amendment) Order 2009, Telecommunications (Level of Spectrum Utilization Fees) (Second Generation Mobile Services) (Amendment) Regulation 2009, and Telecommunications (Determining Spectrum Utilization Fees by Auction) (Amendment) Regulation 2009 to 1 April 2009.

Dates of next meeting and public consultation

5. Members agreed that the next meeting would be held on Friday, 6 March 2009 at 10:45 am to meet with the Administration and deputations. Members also agreed that invitation letters should be issued to the organizations listed in Appendix IV to the Members' brief. The Chairman invited members to notify the Clerk if they wished to invite other organizations.

6. There being no other business, the meeting ended at 11:25 am.

Council Business Division 1
Legislative Council Secretariat
3 April 2009

**Proceedings of the first meeting of
the Subcommittee on Subsidiary Legislation to Enable the Release of Spectrum for
Expansion of the Second Generation Mobile Service and Mobile TV Services
on Friday, 27 February 2009, at 10:45 am
in Conference Room B of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000000 – 000337	Mr Timothy FOK Mr LEE Wing-tat Mr WONG Ting-kwong	Election of Chairman	
000338 – 000630	Chairman Administration	Briefing by the Administration on the Government's decision on the assignment of the relevant radio spectrum and the related legislative amendments to the three pieces of the existing subsidiary legislation under the Telecommunications Ordinance to enable the release of the radio spectrum for expansion of the second generation mobile service and for provision of mobile TV services.	
000631 – 001943	Chairman Mr LEE Wing-tat Mr WONG Ting-kwong Mr Timothy FOK Administration Clerk	<p>Mr LEE Wing-tat's suggestion to invite views from industry players on the subject.</p> <p>The Administration's response:</p> <ul style="list-style-type: none"> - the public, industry and the ITB Panel had been consulted on the matter. In general, the relevant parties supported the proposed release of available radio spectrum in the 1800 MHz for public mobile telephone services and the implementation framework for development of mobile TV services; - the local market welcomed an early auction of the relevant spectrum to enable the provision of a wider variety of multi-media services to the public; and - no adverse comments and requests for further consultation had been received after the related subsidiary legislation was gazetted on 6 February 2009 and tabled at the Council meeting on 11 February 2009. <p>Members' agreement to extend the scrutiny period of the three pieces of subsidiary legislation.</p>	

Time marker	Speaker	Subject(s)	Action required
		Date of next meeting and arrangement for public consultation.	
001944 – 002428	Chairman Mr LEE Wing-tat Administration	<p>Mr LEE Wing-tat's concern:</p> <ul style="list-style-type: none"> - whether the assignment of frequency spectrum through auction would be advantageous to current broadcasting and mobile network operators (MNOs)/large financial conglomerates and create entry barrier for new market players and financially less viable groups; and - whether the Administration would consider specifying concessionary terms and conditions for new market entrant(s). <p>The Administration' advice that:</p> <ul style="list-style-type: none"> - by making reference to the experience of South Korea, a "Pro-mobile TV" approach was proposed whereby successful bidders would be required to use at least 50% of the transmission capacity for the provision of mobile TV services while the remaining capacity could be used to provide other ancillary services, such as digital audio broadcasting or datacasting; - value-added non-mobile TV services could be provided either by the successful bidders direct, or by a mobile TV service provider who hired the remaining transmission capacity from the successful bidders; - to encourage different/new players to provide a wider variety of services in the mobile TV service market, the multiplexes in the UHF Band (470-806 MHz) and Band III (174-230 MHz) would be offered as two separate packages and no bidder would be allowed to acquire more than one package from the auction; and - spectrum allocation by way of an auction reflecting the market value of spectrum as a scarce public resource was a fair, open and efficient way of spectrum assignment. This was in line with Government's market 	

Time marker	Speaker	Subject(s)	Action required
		driven policy and the guiding principles under the Radio Spectrum Policy Framework promulgated in April 2007.	
002429 – 002559	Chairman Mr LEE Wing-tat Administration	Mr LEE Wing-tat sought information on overseas experience on the launch of mobile TV services.	The Administration to follow up as stated in paragraph 3 of the minutes.
002600 – 003319	Chairman Mr Paul TSE Mr WONG Ting-kwong Administration	<p>Mr Paul TSE and Mr WONG Ting-kwong's enquiry about the annual licence fee payable by incumbent MNOs and new licensees.</p> <p>Mr Paul TSE's concern whether incumbent MNOs would have a competitive edge over new market entrants.</p> <p>The Administration's advice that:</p> <ul style="list-style-type: none"> - new and incumbent operators were subject to the same set of licence terms and conditions; - the amount of additional income receivable by the Government varied depending on whether the spectrum was assigned to existing or new operators; - in the case that two new carrier licences were granted, the annual licence fee would be around \$6.7 million, i.e. a fixed annual fee of \$1 million per licence plus a customer connection fee of \$8 per customer per annum, assuming 500 000 customers subscribed the service from the new licensee; and - in the case that the spectrum was assigned to the existing unified carrier licensee, the annual licence fee was estimated to be around \$670,000 as the licensees had already paid the fixed fee and customer connection fee under existing licences. 	
003320 - 004054	Chairman Mr LEE Wing-tat Administration	Mr LEE Wing-tat's enquiry why extra licence fee was not charged for the provision of additional services to customers by incumbent MNOs.	

Time marker	Speaker	Subject(s)	Action required
		<p>The Administration's advice that:</p> <ul style="list-style-type: none"> - licence fee and spectrum utilization fee served different purposes; - license fee was levied on a full-cost recovery principle to cover the licence administration costs incurred by the Office of the Telecommunications Authority; - to encourage provision of additional new services, no extra customer connection fee (one of the components of licence fee) would be levied for add-on services; - spectrum utilization fee was imposed for the right to use the radio spectrum as a scarce public resource and the fee was paid to the general revenue; and - the level of spectrum utilization fee determined by auction would reflect the market value of the spectrum and the business potential perceived by the successful bidder. <p>Mr LEE Wing-tat's enquiry about the reserve price of the radio spectrum for auction.</p> <p>The Administration's advice that a reserve price would be set on the basis of market assessment and consultancy study. To ensure open and fair competition, the reserve price would be specified and the terms and conditions of the auction would be prescribed in the form of gazette notices by the Secretary for Commerce and Economic Development and the Telecommunications Authority respectively nearer the time of the auction.</p>	
004055 – 004219	Chairman	Meeting arrangement	