

**立法會**  
**Legislative Council**

LC Paper No. CB(1)1231/08-09  
(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 second meeting on  
Friday, 6 March 2009, at 10:45 am  
in Conference Room A of the Legislative Council Building**

- Members present** : Dr Hon Samson TAM Wai-ho, JP (Chairman)  
Hon LEE Wing-tat  
Hon WONG Ting-kwong, BBS  
Hon Ronny TONG Ka-wah, SC  
Hon Paul TSE Wai-chun
- Member absent** : Hon Timothy FOK Tsun-ting, GBS, JP
- Public Officers attending** : Mr Alan SIU, JP  
Deputy Secretary for Commerce and Economic Development  
(Communications and Technology)
- Mr Kevin CHOI  
Principal Assistant Secretary for Commerce and Economic  
Development (Communications and Technology)A
- Ms Ida LEE  
Principal Assistant Secretary for Commerce and Economic  
Development (Communications and Technology)B
- 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

**Attendance by invitation** : G-mobile Limited

Mr KO Ping-yeung  
Director

Revenco International Limited

Mr DENG Jin  
Deputy Chairman General Manager

Wave Media Limited

Mr Albert CHENG  
Chairman & CEO

Mr Simon HEUNG  
Technical Consultant

Mr Kelvin LAI  
Project Director

**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

Ms May LEUNG  
Legislative Assistant (1)6

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Action

**I. Meeting with deputations and the Administration**

(LC Paper No. CB(1)980/08-09(01) -- Submission from G-mobile Limited  
(English version only)

LC Paper No. CB(1)980/08-09(02) -- Submission from Revenco  
International Limited (Chinese  
version only)

LC Paper No. CB(1)980/08-09(03) -- Submission from Broadcast Australia  
(English version only)

LC Paper No. CB(1)980/08-09(04) -- Administration's response to issues  
raised at the meeting on 27 February  
2009

LC Paper No. CB(1)986/08-09 -- Submission from Wave Media  
*(tabled at the meeting and Limited)*  
*subsequently issued via e-mail on*  
*6 March 2009)*

Other relevant papers

(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)

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

Legislative timetable

2. Members generally supported the three pieces of subsidiary legislation, i.e. the Telecommunications (Designation of Frequency Bands Subject to Payment of Spectrum Utilization Fee) Order (Cap. 106Y), Telecommunications (Level of Spectrum Utilization Fees) (Second Generation Mobile Services) Regulation (Cap. 106AA) and Telecommunications (Determining Spectrum Utilization Fee by Auction) Regulation (Cap. 106AC).

3. As the Subcommittee completed its scrutiny work, the Chairman said that he would report the Subcommittee's deliberation to the House Committee on 20 March 2009.

4. To enable the Subcommittee to provide a report to the House Committee, members agreed that the Chairman would move a motion at the Council meeting on 11 March 2009 to extend the scrutiny period of the three pieces of subsidiary

legislation to 1 April 2009.

**II. Any other business**

5. There being no other business, the meeting ended at 12:25 pm.

Council Business Division 1  
Legislative Council Secretariat  
3 April 2009

**Proceedings of the second 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, 6 March 2009, at 10:45 am  
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000241 – 000547	Chairman	Opening remarks by the Chairman	
000548 – 001111	Chairman G-mobile Limited	<b>Meeting with deputations</b>  Presentation of views (LC Paper No. CB(1)980/08-09(01))	
001112 – 001319	Chairman Revenco International Limited	Presentation of views (LC Paper No. CB(1)980/08-09(02))	
001320 – 001657	Chairman Wave Media Limited	Presentation of views (LC Paper No. CB(1)986/08-09 – tabled at the meeting and subsequently issued on 6 March 2009)	
001658 – 002108	Chairman Administration	<p>The Administration's initial response to deputations' views as follows :</p> <ul style="list-style-type: none"> <li>(a) Both UHF Band and Band III frequency spectrum were suitable for provision of mobile TV services with different digital broadcasting technologies. The mode of operation and the mix of mobile TV and other services would depend on the business plan of the operators;</li> <li>(b) in accordance with the market-led and technology neutral approach, the Government would not propose to legislate on the selection of television reception devices for broadcast-type mobile TV services;</li> <li>(c) a performance bond would be imposed upon the prospective mobile TV operators to provide coverage for 50% of the population within 18 months from the grant of a unified carrier licence;</li> <li>(d) the Government would not propose to impose specific requirements on mobile TV program content. The regulation of mobile TV programming and programme content would be subject to general laws and self-regulatory codes of practice to be developed by the industry;</li> <li>(e) of the five available multiplexes earmarked for digital broadcasting in the UHF Band, three were allocated to the two free-to-air TV broadcasters for the provision of digital</li> </ul>	

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		<p>terrestrial television (DTT) services. Four frequency multiplexes in Band III would be available from 2009 onwards. The Government proposed to release one out of the two available frequency multiplexes in UHF Band and two out of the four available frequency multiplexes in Band III for the introduction of broadcast-type mobile TV services which would enable the provision of a maximum of some 26 mobile TV programme channels. The remaining frequency multiplexes (one in the UHF Band and two in Band III) would be reserved for future DTT or digital audio broadcasting (DAB) services, or other possible electronic communications services when technology further evolved;</p> <p>(f) with the successful implementation of DTT and the switching off of analogue TV broadcasting, more UHF multiplexes would be made available for allocation; and</p> <p>(g) to encourage the roll out of DAB services, up to 50% of the transmission capacity could be used for non-mobile TV services, such as DAB or datacasting, and two multiplexes in Band III were reserved for DAB services.</p>	
002109 – 002428	Chairman Mr LEE Wing-tat Administration	<p>Mr LEE Wing-tat's concerns on the following:</p> <p>(a) whether the differences in transmission capacity (a frequency multiplex of 8 MHz in UHF band was capable of carrying about 20 mobile TV channels, while a Band III frequency multiplex could only carry three mobile TV channels) would constitute unfair competition among service providers;</p> <p>(b) whether the Government had assessed market interest and demand for DAB services; and</p> <p>(c) whether frequency spectrum had been reserved for public service broadcasting (PSB).</p> <p>The Administration's advice that:</p> <p>(a) spectrum utilization fee (SUF) to be determined by auction would reflect the market value of the relevant frequency spectrum. The successful bidders of spectrum in Band III and UHF Band would also compete on service charge, quality of programme content and provision of ancillary services;</p> <p>(b) despite lukewarm response in the earlier rounds of consultation, some industry players had recently indicated interests in providing DAB services. The Administration undertook to discuss with the sound broadcasting industry</p>	

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		<p>on the future development of DAB; and</p> <p>(c) one multiplex in the UHF Band and two Band III multiplexes had been reserved and could be used for future development of DAB and PSB services.</p>	
002429 – 002925	Chairman Mr Paul TSE Administration	<p>Mr Paul TSE's enquiry on the following:</p> <p>(a) whether there was any difference between UHF and Band III in terms of audio and visual quality;</p> <p>(b) whether combined hand-held device capable of supporting mobile TV services in both UHF Band and Band III was currently available in the market or separate handsets had to be used for the two frequency bands;</p> <p>(c) the Government's utilization plan for the reserved frequency multiplex in UHF Band, and whether the Government would consider releasing all available frequency multiplexes in the UHF band for mobile TV services; and</p> <p>(d) the Government's plan for the development of PSB in Hong Kong.</p> <p>The Administration's advice that:</p> <p>(a) with reference to the overseas experience and field trials conducted in Hong Kong, audio and visual qualities of UHF Band and Band III for mobile TV services were broadly similar;</p> <p>(b) chipsets supporting both UHF and Band III was available in R&amp;D stage and consumer products were expected to be available in future subject to market development and the emergence of new technology; and</p> <p>(c) to allow flexibility for future technology and market development, it was necessary to reserve the remaining half of the UHF Band and Band III (one multiplex in the UHF Band and two in Band III) for other communications services including future DAB/PSB/DTT services.</p>	
002926 – 003308	Chairman Mr WONG Ting-kwong Administration	<p>Mr WONG Ting-kwong's enquiry about the following:</p> <p>(a) the cost difference of a handset supporting the UHF Band and Band III, if any; and</p> <p>(b) arrangement for new operators to access to incumbent operators' site facilities and network.</p> <p>The Administration's advice that:</p>	



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		<p>(a) overseas experience showed that cost of the handsets for the UHF Band and Band III were similar; and</p> <p>(b) to facilitate the provision of mobile TV services in Hong Kong, sharing of existing hilltop broadcasting site facilities was encouraged and would be subject to commercial agreement between prospective service operators and the incumbent operators while the Telecommunications Authority (TA) could intervene and make determinations if necessary.</p>	
003309 – 003730	Chairman Wave Media Limited Administration	<p>Wave Media Limited's query on the following:</p> <p>(a) whether both UHF and Band III should be used for mobile TV services in a small market/place like Hong Kong, noting that overseas jurisdictions only adopt one technical standard for broadcast-type mobile TV; and</p> <p>(b) whether two Band III multiplexes reserved for DAB would be sufficient as each multiplex could only carry 7 channels and the fact that the Radio Television Hong Kong, Commercial Radio and Metro Radio might already take up 13 channels.</p> <p>The Administration reiterated the Government's technology neutral and market-driven approach by leaving the market to decide on the technical standards for broadcast-type mobile TV services. The Administration advised that two Band III multiplexes were reserved to cater for the development of DAB, while new technology could enable more digital radio channels to be carried by the same multiplexes.</p>	
003731 – 004404	Chairman Mr Paul TSE Administration	<p>Mr Paul TSE's query as to why the Government would not consider releasing all UHF multiplexes for mobile TV services while using the Band III frequency spectrum for DAB services which he considered more preferable in terms of spectrum management and more beneficial to consumers.</p> <p>The Administration reiterated the rationale for reserving the remaining frequency multiplexes. Mandating the technical standards by the Government would deviate from the technology-neutral and market-driven policies. Moreover, the switching off of analogue TV broadcasting would release more UHF multiplexes for new services such as the fourth generation mobile service and other communications services.</p>	
004405 – 004609	Chairman G-mobile Limited Administration	G-mobile's enquiry as to whether the Government would consider including the number of service subscriber as a licensing condition for mobile TV operators, and whether incentives, in form of licence fee and tax concession, be offered	

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		<p>to help promote the provision of mobile TV services.</p> <p>The Administration's response that no requirement would be imposed on the number of subscribers and the level of licence fee would be determined on the basis of full-cost recovery principle, as in the case of licensing arrangement for other telecommunications and broadcasting services.</p>	
004610 – 004859	Chairman Mr LEE Wing-tat Administration	<p>Mr LEE Wing-tat's enquiry on whether technology neutral approach was an international practice commonly adopted by other overseas jurisdictions, and whether the Government had assessed the pros and cons of releasing both UFH Band and Band III frequency spectrum for mobile TV services in Hong Kong's small market.</p> <p>The Administration's response that different jurisdictions had different arrangements. The proposed implementation framework including spectrum allocation was decided taking into account views by the public and the industry in the two rounds of consultation.</p>	
004860 – 005647	Chairman Mr WONG Ting-kwong Wave Media Limited G-mobile Limited Administration	<p>Mr WONG Ting-kwong's concern about economic loss of service providers and consumers in the event that one technical standard was phased out due to market competition. He invited deputations' views on the Government technology neutral and market-based approach.</p> <p>Wave Media Limited's view that from consumers' perspective and on commercial consideration, the technical standard that failed to get the bigger market share would eventually be phased out.</p> <p>G-mobile Limited's view that in assigning frequency spectrum for mobile TV services, the Government should reconsider the possible advantages of specifying a certain technical standard, taking into account public interest.</p> <p>Mr WONG Ting-kwong's remark that while he appreciated the Government's market-led approach, some degree of forward looking guidance from the Government might be necessary to safeguard public interest, cost effectiveness and proper utilization of spectrum as a scarce public resource.</p> <p>The Administration's response that a market-led approach should not be taken as a complete hands-off by the Government. The Government would keep in view technological developments in this respect. Similar to the experience in the implementation of DTT, as and when the industry decided on the technical standards, the Government would assist in technical trial, coordination, and setting up technical guidelines for the industry to safeguard consumers' interest.</p>	

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005648 – 010448	Chairman Mr Paul TSE Administration	<p>Mr Paul TSE's enquiry about the licence period, the review of the requirement that at least 50% of the transmission capacity should be used for mobile TV services (50% threshold), the feasibility of using other frequency such as L Band for mobile TV services, and whether it was possible at this point in time to reconsider the spectrum assignment for mobile TV services.</p> <p>The Administration's response as follows:</p> <ul style="list-style-type: none"> <li>(a) successful bidder(s) would be granted a 15-year licence;</li> <li>(b) the 50% threshold would be subject to review five years after the initial frequency assignment taking into account market developments and emergence of new technology and services;</li> <li>(c) the use of L Band for mobile TV services was not popular. The local market was not interested in this frequency band and it should be reserved subject to further development of the worldwide market; and</li> <li>(d) the purpose of the legislative amendments to the three pieces of subsidiary legislation under the Telecommunications Ordinance (TO) was to designate the use of the relevant frequencies to be subject to payment of SUF and to specify the SUF to be determined by auction. The Secretary for Commerce and Economic Development (SCED) and TA would specify the reserve price and the terms and conditions of the auction in the form of gazette notices. An information memorandum would also be published nearer the time of the auction.</li> </ul>	
010449 – 010713	Chairman Mr LEE Wing-tat Administration	<p>Mr LEE Wing-tat's enquiry on whether the Government had assessed the market interest in bidding for Band III for mobile TV services.</p> <p>The Administration's response that positive responses had been received from a number of industry players during the consultation. Following the market-led approach, the bidders would decide which of the Bands suited their business needs. The level of SUF determined by auction would also reflect the market value of the spectrum and the business potential perceived by the market.</p>	
010714 – 011145	Chairman Mr Ronny TONG Administration	<p>Mr Ronny TONG criticized the Government for the lack of a comprehensive strategy and vision for broadcasting and telecommunications development in Hong Kong. He found it regrettable that frequency spectrum was assigned by the Government as a commodity for auction proceeds rather than addressing the needs of minority groups and the demand for</p>	

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		<p>public access channels.</p> <p>The Administration's response that there was a comprehensive spectrum allocation plan to meet the current and future needs and aspirations of the community and the industry. In accordance with the Radio Spectrum Policy Framework promulgated by the Government, a market-based approach would be used for spectrum assignment whenever the TA considered that there was likely to be competing demand for the spectrum.</p>	
011146 – 012037	<p>Chairman Administration Mr Paul TSE Mr WONG Ting-kwong</p>	<p><b>Meeting with the Administration</b></p> <p><u>Administration's response to issues raised at the Subcommittee meeting on 27 February 2009</u> (LC Paper No. CB(1)980/08-09(04))</p> <p>Mr Paul TSE sought elaboration on local programming requirement for mobile TV services in Japan. He suggested that apart from the SUF to be determined by auction, consideration be given to include other criteria such as programme content and quality as a licence obligation/condition to help ensure the programme standard.</p> <p>The Administration's response as follows:</p> <ul style="list-style-type: none"> <li>(a) the requirement in Japan that the content broadcast through mobile TV handsets had to be the same as those on conventional TV was lifted in mid-2008;</li> <li>(b) mobile TV service was a nascent and relatively personal service. As such, a light-handed regulatory approach was proposed to allow mobile TV operators to provide a wider variety of programmes targeting the mobile TV market; and</li> <li>(c) the public and the industry welcomed an early introduction of mobile TV services to provide a wider variety of programmes.</li> </ul> <p>Referring to the termination of mobile TV service by British Telecom in the United Kingdom due to unsatisfactory customer take-up after operating for about a year, Mr WONG Ting-kwong reiterated that the Government should provide guidance on the choice of technical standards to avoid a waste of resources.</p>	
012038 – 013716	<p>Chairman Administration Mr WONG Ting-kwong Mr Ronny TONG Assistant Legal</p>	<p><u>Clause-by-clause examination of the amendment of the three pieces of subsidiary legislation</u> (L.N. 20, 21 and 22 of 2009)</p> <p>Mr WONG Ting-kwong sought clarification on the annual licence fee (\$145 per kHz and \$1,450 per kHz).</p>	

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
	Adviser (ALA) Mr Paul TSE	<p>The Administration's explanation on the formula for determining the annual fee for the period 30 September 2009 to 29 September 2011 and from 30 September 2011 to 29 September 2021 (para 5(b)(i) and (ii) in LC Paper No. LS38/08-09).</p> <p>In response to Mr Ronny TONG's enquiry, ALA advised that section 10 of Cap. 106 AC stipulated that the reserve price was to be prescribed by SCED in the form of a gazette notice.</p> <p>In response to Mr Paul TSE's enquiry about the numbering of subsections under section 3 (L.N. 22 of 2009), the Administration explained that to avoid having to renumber the subsequent subsections, it was an acceptable practice for subsection (1A) to precede subsection (1).</p>	
013717 – 013855	Chairman	Extension of scrutiny period of the three pieces of subsidiary legislation.	