

**立法會**  
**Legislative Council**

LC Paper No. CB(1)455/09-10  
(These minutes have been seen by  
the Administration)

Ref : CB1/BC/1/09

**Bills Committee on  
Telecommunications (Amendment) Bill 2009**

**Minutes of the first meeting  
held on Thursday, 5 November 2009, at 8:30 am  
in Conference Room A of the Legislative Council Building**

**Members present** : Hon Andrew LEUNG Kwan-yuen, SBS, JP (Chairman)  
Hon LAU Kong-wah, JP  
Hon Emily LAU Wai-hing, JP  
Hon Timothy FOK Tsun-ting, GBS, JP  
Hon Abraham SHEK Lai-him, SBS, JP  
Hon LEE Wing-tat  
Hon WONG Ting-kwong, BBS, JP  
Hon Cyd HO Sau-lan  
Hon Mrs Regina IP LAU Suk-ye, GBS, JP  
Dr Hon Samson TAM Wai-ho, JP

**Member absent** : Hon Ronny TONG Ka-wah, SC

**Public Officers  
attending** : Agenda Item II

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

Mr Aaron LIU  
Principal Assistant Secretary for Commerce and  
Economic Development (Communications and  
Technology)A

Ms Maisie CHENG, JP  
Commissioner for Television and Entertainment  
Licensing

Ms Monica LAW  
Senior Assistant Law Draftsman  
Department of Justice

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

**Staff in attendance :** Miss Winnie LO  
Assistant Legal Advisor 7

Ms Annette LAM  
Senior Council Secretary (1)3

---

Action

**I. Election of Chairman**

Mr Andrew LEUNG was elected Chairman of the Bills Committee.

**II. Meeting with the Administration**

(LC Paper No. CB(3)813/08-09 -- The Bill

LC Paper No. CB(1)187/09-10(01) -- Marked-up copy of the Bill prepared by the Legal Service Division

File Ref: CTB(CR)9/19/15 (09) Pt. 3 -- Legislative Council Brief on Telecommunications (Amendment) Bill 2009 issued by the Commerce and Economic Development Bureau

LC Paper No. LS2/09-10 -- Legal Service Division Report

LC Paper No. CB(1)188/09-10(01) -- Background brief prepared by the Legislative Council Secretariat

LC Paper No. CB(1)188/09-10(02) -- Submission from the Law Society of Hong Kong (English version only)

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

- Admin 3. The Administration was requested to provide the following information:
- (a) the availability of spectrum for digital sound broadcasting services (including the additional frequency spectrum to be released by digitization and the additional number of channels that can be supported);
  - (b) the sound broadcasting services licensing regimes in overseas jurisdictions, including the licensing criteria for the grant of sound broadcasting licenses and the criteria applicable to community broadcasting for specific social/ethnic/religious groups covering a particular locality or region, if any;
  - (c) the findings in respect of radio listening habits of Hong Kong people in the last three Broadcasting Services Surveys conducted by the Television and Entertaining Licensing Authority in 2002, 2005 and 2007;
  - (d) Government's overall plan and time-table for the development of digital audio broadcasting (DAB) in Hong Kong, including resource allocation to the Radio Television Hong Kong (RTHK) for the development of DAB, and the result of the technical trial of DAB conducted by RTHK;
  - (e) the existing application processing procedures and assessment criteria for the grant of licences for sound broadcasting services and the appeal mechanism;
  - (f) the composition and membership list of the Broadcasting Authority (BA);
  - (g) the guidance note for those interested in applying for domestic free television programme service licences issued by the BA;
  - (h) the draft guidance note for those interested in applying for sound broadcasting service licences issued by the BA; and
  - (i) the Legislative Council Brief on the application by the Ocean Technology Limited for a sound broadcasting licence to establish and maintain a community radio known as Citizens' Radio and any other related information.
- Admin 4. The Administration was also requested to:
- (a) clarify whether the reception of sound broadcasting services would involve the installation of related facilities in buildings which might require the approval of the Owners Incorporated concerned;

- (b) consider whether the Chief Executive-in-Council's "discretion" in respect of the grant of a licence for sound broadcasting services should be removed from the Telecommunications (Amendment) Bill 2009; and
- (c) consider relaxing the criteria on the "benefits to the local broadcasting industry, the audience and the community as a whole" so as to also allow the grant of sound broadcasting licences to specific social/ethnic/religious groups covering a particular locality or region.

*(Post-meeting note: The information in respect of paragraphs 3 and 4 were circulated to members vide LegCo Brief (File Ref: CTB(CR) 9/2/26 (06) Pt.4) and LC Paper Nos. CB(1)457/09-10(04) to (06) issued on 24 November 2009.)*

- LSD 5. The Legal Service Division of the Legislative Council Secretariat was requested to provide a note on how a licence to provide a television programme service was granted under the Broadcasting Ordinance (Cap. 562).

*(Post-meeting note: The information in respect of paragraph 5 was circulated to members vide LC Paper No. LS15/09-10 issued on 24 November 2009.)*

- Secretariat 6. The Secretariat was requested to circulate for members' information:

- (a) the Legislative Council Brief on application for a sound broadcasting licence to operate community radio service issued on 12 December 2006; and
- (b) the research report on "Regulation of radio broadcasting services in selected places" prepared by the Research and Library Services Division of the Legislative Council Secretariat on 5 June 2008.

*(Post-meeting note: The information in respect of paragraph 6 were circulated to members vide LC Paper No. CB(1)307/09-10 issued on 9 November 2009.)*

#### Invitation of views for the next meeting

7. Members agreed to invite deputations to give views to the Bills Committee at the next meeting scheduled for Monday, 30 November 2009 from 2:30 pm to 4:30 pm in the Chamber of the Legislative Council Building. Invitation letters would be issued to the organizations listed in Appendix IV to Members' Brief. In this connection, members agreed that the Hong Kong Journalists Association, the Hong Kong Human Rights Monitor and the Law Society of Hong Kong should be invited to attend the meeting. A general notice would be posted on the website of

the Legislative Council to invite submissions from the public. In accordance with the general practice, invitation would be extended to the 18 District Councils.

*(Post-meeting note: Members were informed of the meeting arrangements vide LC Paper No. CB(1)298/09-10 issued on 9 November 2009.)*

**III. Any other business**

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

Council Business Division 1  
Legislative Council Secretariat  
26 November 2009

**Proceedings of the first meeting of  
Bills Committee on Telecommunications (Amendment) Bill 2009  
on Thursday, 5 November 2009, at 8:30 am  
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000139 – 000244	Mr LAU Kong-wah Mr WONG Ting-kwong Dr Samson TAM Mr Andrew LEUNG	Election of Chairman	
000245 – 000636	Chairman Administration	Briefing by the Administration (Legislative Council Brief on Telecommunications (Amendment) Bill 2009 (File Ref: CTB(CR)9/19/15(09) Pt.3))	
000637 – 015749	Chairman Mrs Regina IP Mr LEE Wing-tat Ms Emily LAU Mr LAU Kong-wah Mr WONG Ting-kwong Ms Cyd HO Administration	<p><u>Licensing criteria on financial soundness and commitment to investment</u></p> <p>Mrs Regina IP sought elaboration on the licensing criteria on financial soundness and commitments to investment. Ms Emily LAU expressed concern that the said criteria would preclude set-ups that had less financial means from being granted a licence to operate community radio service. She called on the Administration to consider lowering the financial threshold so that not only resourceful conglomerates, but also smaller community groups that were relatively less financially capable could also have the opportunity to operate their own channels and participate in community broadcasting.</p> <p>The Administration explained that the criteria on financial soundness did not specify the minimum level of financial resources required other than stating that the applicant must demonstrate a commitment to invest sufficiently in the proposed project and must possess sufficient financial capability to invest to the level proposed. As such, no prospective applicants would be barred from making an application on financial grounds. The financial requirement and related consideration would depend on the applicant's business proposal in respect of the scale, nature and programme content of the services to be provided.</p> <p><u>Licensing criteria on fit and proper persons</u></p> <p>Mr LEE Wing-tat, Ms Emily LAU and Mr WONG Ting-kwong enquired whether persons with criminal record</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>in Hong Kong and/or overseas would be considered as not fit and proper.</p> <p>The Administration advised that in determining whether the applicant or person exercising control of the applicant was a fit and proper person, account must be taken of, among others, the applicant's and the person's criminal record in Hong Kong in respect of offences under the laws of Hong Kong involving bribery, false accounting, corruption or dishonesty. The applicant's criminal record in places outside Hong Kong in respect of conduct which, if done in Hong Kong, would constitute or form part of the criminal record in Hong Kong involving bribery, false accounting, corruption or dishonesty, would also be taken into account.</p> <p><u>Licensing criteria on (i) quality control and compliance, and (ii) the variety, quantity and quality of programmes to be provided</u></p> <p>Mr LEE Wing-tat and Ms Cyd HO expressed concern whether the criteria on programme quality, which was subject to interpretation, would be construed as a means of political censorship to bar groups that held opposing views to the Government from obtaining a licence for sound broadcasting services. Given that digitization would release additional spectrum supporting more radio channels, Ms Cyd HO was of the view that applicants proposing to provide a specific type of programmes instead of comprehensive multi-programmes should be favourably considered.</p> <p>The Administration advised that:</p> <p>(a) Clause 4 of the Bill added a new section 13CA to empower the Broadcasting Authority (BA) to issue guidelines indicating how it proposed to perform its function of making recommendations on sound broadcasting licence applications to the Chief Executive (CE)-in-Council. Similar to the guidelines issued by BA for processing licence applications for television services, detailed guidelines would be issued in respect of sound broadcasting services;</p> <p>(b) radio stations providing topical/thematic programmes would not be precluded. The reference to programme quality and content was to ensure that licence applicants were aware of the programme requirements and standards set out in the guidelines issued by BA; and</p> <p>(c) in respect of the criteria on the variety, quantity and</p>	<p>The Administration to follow up as stated in paragraphs 3(g) and (h) of the minutes.</p>

Time marker	Speaker	Subject(s)	Action required
		<p>quality of programmes, the proposals would be evaluated on factors, such as the appeal of the programming to audience, the quantity and quality of proposed programmes and the extent to which they would broaden audience's choice.</p> <p><u>Licensing criteria on benefits to the local broadcasting industry, the audience and the community as a whole</u></p> <p>(a) Ms Emily LAU's view that while benefits to the community as a whole was important, consideration should be given to relaxing the criteria so as to also allow the grant of sound broadcasting licences to specific social/ethnic/religious groups for broadcasting covering a particular locality or region. This would encourage plurality of voices and widen programming choices. Given that digitization would free up frequency spectrum, members were of the view that the Government should be more open-minded to community participation in broadcasting, and provide more platforms and channels for different sectors of the community and non-governmental organizations to express diverse views.</p> <p>The Administration responded that the Administration was keenly aware of calls on the Government to allow for more community participation in public access broadcasting. Apart from personal view programmes provided by the existing three radio broadcasters, various channels and platforms (such as newspapers, magazines, television, Internet) were available for the public to express their views. Subject to the outcome of the public consultation and the established mechanism governing the allocation of new resources, Radio and Television Hong Kong (RTHK) would be allocated resources and frequency spectrum to enhance its operations and expand the scope of its services, including the provision of dedicated digital channels to be used as platform for community participation in broadcasting. A Community Broadcasting Involvement Fund would be set up to provide financial support and technical assistance to facilitate community groups to participate in broadcasting and content productions.</p> <p>(b) In response to Ms Emily LAU and Ms Cyd HO's enquiry about installation fees and equipment cost that might be incurred for reception of digital audio broadcasting services, the Administration advised that the installation fees and equipment cost to be charged to audience by service providers, if applicable, must be set at levels which were affordable and accessible to the general</p>	<p>The Administration to follow up as stated in paragraph 4(c) of the minutes.</p> <p>The Administration to follow up as stated in paragraph 4(a) of the minutes.</p>





Time marker	Speaker	Subject(s)	Action required
		<p>grant of licences in respect of television programme services.</p> <p>The Administration advised that similar to the licensing regime for television programme services, the CE-in-Council had the discretion to decide whether or not to grant a sound broadcasting licence. To provide for legal certainty and to enhance transparency of the existing sound broadcasting licensing regime, the set of licensing criteria for the grant of licences were proposed to be prescribed under the law. No additional power was granted to the CE-in-Council by the proposed legislative amendments.</p> <p><u>Application procedures and appeal mechanism</u></p> <p>Discussion on the application processing procedures and assessment criteria for the grant of licences for sound broadcasting services, the respective role of the Telecommunications Authority and BA, as well as the provision for judicial review.</p> <p><u>The application of the Ocean technology Limited to operate a community radio known as Citizens' Radio</u></p> <p>Ms Emily LAU, Mr LEE Wing-tat and Ms Cyd HO expressed grave concern whether under the licensing criteria, applicant(s) holding opposing views to the Government (such as Citizens' Radio) would be refused to grant a licence to operate sound broadcasting services. They enquired whether reference had been made to the sound broadcasting licensing regimes of overseas jurisdictions including the criteria for the grant of licence, in particular the criteria applicable to community broadcasting for specific social/ethnic/religious groups covering a particular locality or region.</p> <p>The Administration explained as follows:</p> <p>(a) the criteria were not new and were merely a replication of the administrative guidelines that had hitherto been used in precedent cases. They were objective and were based on local experience in considering broadcasting licence applications and overseas best practice;</p> <p>(b) the objective of the Bill was to provide for legal certainty, to enhance transparency of the existing sound broadcasting licensing regime and to enable the public and the licence applicant to be fully aware of the factors and requirements against which a licence application would be considered. The legislative proposal was in line with the expectation of the public and Members that</p>	<p>LSD to follow up as stated in paragraph 5 of the minutes.</p> <p>The Administration to follow up as stated in paragraphs 3(e) and (f) of the minutes.</p> <p>The Administration to follow up as stated in paragraphs 3(b) and (i) of the minutes.</p>

Time marker	Speaker	Subject(s)	Action required
		<p>licensing regime should be transparent and included under the law; and</p> <p>(c) the criteria were not targeted at Citizens' Radio. Upon the passage of the Bill, the criteria would be applied to all licence applications for sound broadcasting services. Clause 5 provided that the Telecommunications Ordinance (Cap. 106) as amended by the Bill after its enactment applies to pending applications for sound broadcasting licences.</p> <p><u>Trend in radio listening habits</u></p> <p>Discussion on the recent trend of Hong Kong people's radio listening habits and programme interests.</p> <p><u>Frequency coordination with the Mainland</u></p> <p>Discussion on frequency coordination with the Mainland and concern about frequency interference in Tuen Mun and Tsuen Wan areas.</p> <p><u>Internet TV and radio broadcasting not subject to regulation</u></p> <p>Discussion on the regulation of Internet TV and Internet radio broadcasting.</p> <p>The Administration explained that in line with overseas practice, and in view of its unique nature, Internet TV and Internet radio broadcasting were not subject to licensing regulation as no frequency interference and competing use of spectrum were involved.</p>	<p>The Secretariat to follow up as stated in paragraphs 6(a) and (b) of the minutes.</p> <p>The Administration to follow up as stated in paragraph 3(c) of the minutes.</p>
015750 – 015846	Chairman	Meeting arrangement	