

立法會
Legislative Council

LC Paper No. CB(1)1215/10-11
(These minutes have been seen
by the Administration)

Ref : CB1/BC/10/09

Bills Committee on Communications Authority Bill

Minutes of the sixth meeting
held on Tuesday, 11 January 2011, at 4:30 pm
in Conference Room A of the Legislative Council Building

Members present : Hon LAU Kong-wah, JP (Chairman)
Dr Hon Samson TAM Wai-ho, JP (Deputy Chairman)
Dr Hon Margaret NG
Hon CHAN Kam-lam, SBS, JP
Hon Emily LAU Wai-hing, JP
Hon LEE Wing-tat
Hon WONG Ting-kwong, BBS, JP
Hon Ronny TONG Ka-wah, SC
Hon Cyd HO Sau-lan
Hon Paul TSE Wai-chun

Members absent : Dr Hon Philip WONG Yu-hong, GBS
Hon Timothy FOK Tsun-ting, GBS, JP
Hon Andrew LEUNG Kwan-yuen, GBS, JP
Hon Mrs Regina IP LAU Suk-yeet, GBS, JP
Hon WONG Yuk-man

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)B

Mr SUEN Wai-chung
Senior Assistant Law Draftsman (Professional
Development)
Department of Justice

Ms Carmen CHU
Senior Government Counsel
Department of Justice

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

Mr Chaucer LEUNG
Head, Regulatory 1 and Head of Special Duty
Office of the Telecommunications Authority

Attendance by invitation : Agenda item II
Broadcasting Authority

Mr Adrian WONG, MH, JP
Member

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

Staff in attendance : Mr Bonny LOO
Assistant Legal Adviser 3

Ms Annette LAM
Senior Council Secretary (1)3

I. Confirmation of minutes of meetings

(LC Paper No. CB(1)970/10-11 -- Minutes of meeting held on 26 November 2010)

LC Paper No. CB(1)971/10-11 -- Minutes of meeting held on 7 December 2010)

The minutes of the meetings held on 26 November and 7 December 2010 were confirmed.

II. Meeting with the Administration

(LC Paper No. CB(1)670/10-11(01) -- List of follow-up actions arising from the discussion at the meeting on 26 November 2010)

LC Paper No. CB(1)670/10-11(02) -- Administration's response to issues raised at the meeting on 26 November 2010

LC Paper No. CB(1)1026/10-11(01) -- List of follow-up actions arising from the discussion at the meeting on 7 December 2010

LC Paper No. CB(1)1026/10-11(02) -- Administration's response to issues raised at the meeting on 7 December 2010

Clause-by-clause examination of the Bill

LC Paper No. CB(3)815/09-10 -- The Bill

LC Paper No. CB(1)333/10-11(01) -- Marked-up copies of the relevant Ordinances and Regulations

File Ref: CTB(CR)9/19/13 (10) -- Legislative Council Brief on Communications Authority Bill issued by the Commerce and Economic Development Bureau)

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

Admin 3. The Administration was requested to:

- (a) set out the Government's policy intent in respect of the public mission of the proposed Communications Authority (CA) and to propose amendments to the Bill to address members' concern in this respect;
- (b) provide the organizational structure and the distribution of business of the proposed Office of the Communications Authority (OFCA) in relation to its various functions;
- (c) advise how the Director-General of Communications and the different sections of OFCA would be funded under the OFCA Trading Fund and the new General Revenue Head; and
- (d) provide the organizational structure and the distribution of business of the Television and Entertainment Licensing Authority in relation to its existing functions and how those functions would be discharged (and by whom) in the future upon the establishment of CA and OFCA.

(Post-meeting note: The information provided by the Administration was issued to members vide LC Paper No. CB(1)1158/10-11(02) on 26 January 2011.)

BA 4. The Broadcasting Authority (BA) was requested to provide detailed information on BA members' views on the Bill, the proposed merger of the Telecommunications Authority and BA, and related issues including but not limited to the following:

- (a) the establishment of the CA;
- (b) the staged approach in reviewing the regulatory regime for the telecommunications and broadcasting sectors;
- (c) the review of the Telecommunications Ordinance and the Broadcasting Ordinance to rationalize any inconsistencies between them;
- (d) the public mission and functions of the CA;

- (e) the composition and the size of the CA membership having regard to its scope of responsibility and workload, remuneration for CA members and whether full-time paid members should be appointed to the CA;
- (f) the status, organizational structure and functions of the OFCA; and
- (g) the operation of the future OFCA Trading Fund.

II. Any other business

5. The Chairman reminded members that the seventh meeting would be held on 27 January 2011 at 2:30 pm in Conference Room A of the Legislative Council Building.

6. The Bills Committee hoped that more BA members, including the BA Chairman, would attend a future meeting of the Bills Committee to exchange views on the establishment of the CA, the draft CA Bill and related matters. The Administration was requested to liaise with BA and LegCo Secretariat on meeting arrangement. The Chairman said that members should be notified as early as possible of BA's attendance.

Admin

7. There being no other business, the meeting ended at 6:30 p.m.

Council Business Division 1
Legislative Council Secretariat
1 February 2011

**Proceedings of the sixth meeting of
Bills Committee on Communications Authority Bill
on Tuesday, 11 January 2011, at 4:30 pm
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000000 - 000324	Chairman	<p>(a) Opening remarks by the Chairman.</p> <p>(b) Confirmation of minutes of meetings on 26 November and 7 December 2010 (LC Paper Nos. CB(1)970/10-11 and CB(1)971/10-11).</p>	
000325 - 010619	Chairman Administration Broadcasting Authority Ms Emily LAU Mr LEE Wing-tat Ms Cyd HO Mr CHAN Kam-lam Dr Margaret NG	<p>Briefing by the Administration on its response to issues raised at the meeting on 26 November 2010 (paragraphs 1 to 5 of LC Paper No. CB(1)670/10-11(02)).</p> <p>Views of the Broadcasting Authority (BA) on the establishment of the Communications Authority (CA) and related matters (Annex D to LC Paper No. CB(1)670/10-11(02)).</p> <p><u>Establishment of the CA and the staged approach</u> Mr Adrian WONG of BA said that the BA supported the establishment of the CA through the merger of the Telecommunications Authority (TA) and the BA, the staged approach in reviewing the regulatory regime in telecommunications and broadcasting, and the need to rationalize the current inconsistencies in the Telecommunications Ordinance (TO) and the Broadcasting Ordinance (BO).</p> <p><u>Public mission of CA</u> Mr Adrian WONG of BA said that BA members had different views on what should be included as CA's public mission (e.g. consumer interest and child protection, etc), the priority of the items for inclusion in the public mission, and whether the public mission should be included in the legislation. Most BA members considered it more practicable to follow BA's current arrangement of posting its public mission on the website to retain flexibility.</p> <p>The Administration was liaising with the Law Draftsman to propose amendments to the Bill to address members' concern on public mission of CA, in particular freedom of expression.</p> <p>The Chairman expressed concern about possible abuse of freedom of expression. He said that while upholding freedom of expression, it was equally important to strike a balance in ensuring responsible expression in television and</p>	<p>The Broadcasting Authority to follow up as stated in paragraph 4(a) to (g) of the minutes.</p> <p>The Administration to follow up as stated in paragraph 3(a) of the minutes.</p>

Time marker	Speaker	Subject(s)	Action required
		<p>radio programmes to safeguard public interest.</p> <p>Mr CHAN Kam-lam expressed reservation over detailing CA's mission in the legislation which might pre-empt the future operation of the new CA. He considered it sufficient to set out CA's powers and functions in the Bill and urged the Administration to provide flexibility and allow room for the future CA to make the necessary adjustment having regard to the development of the communications and broadcasting markets in Hong Kong.</p> <p><u>Membership of CA and its workload</u></p> <p>Mr Adrian WONG of BA noted that the Administration had increased the number of non-official members to be appointed to the CA to "no more than 10", which was more than the current BA.</p> <p>Mr Adrian WONG of BA was of the view that BA members were committed to the work of BA and the meeting attendance rate was generally high. The BA and its committees (Complaints Committee and the Code of Practice Committee), with the support of a dedicated secretariat, could cope with the current workload effectively. Experience in the past indicated that where necessary, the Administration would deploy additional manpower to assist the work of BA.</p> <p>BA had benefited from the experience of members who were retired veterans of the industry. To appoint currently practising industry professionals to the CA might give rise to concerns over conflict of interest.</p> <p><u>Level of honorarium</u></p> <p>Mr. Adrian WONG said he understood that many non-official BA members had opted for forgoing the honorarium. The Bill (Clause 8) had provided for the flexibility of appointing full-time members to CA depending on the future workload, and provided flexibility for the level of the honorarium to be adjusted to be commensurate with the amount of workload and the time committed by members.</p>	
010620 - 013539	Chairman Administration Ms Cyd HO Mr LEE Wing-tat Ms Emily LAU Mr Ronny	<p>Briefing by the Administration on its response to issues raised at the meeting on 26 November 2010 (paragraphs 6-16 of LC Paper No. CB1(670/10-11(02))</p> <p><u>The transfer of functions and staff to OFCA</u></p>	

Time marker	Speaker	Subject(s)	Action required
	<p>TONG Mr Paul TSE</p>	<p>In response to members' enquiries, the Administration advised that:</p> <ul style="list-style-type: none"> (a) irrespective of the source of funding, the remuneration and the conditions of service of individual staff transferred from the Office of Telecommunications Authority (OFTA) and the Television and Entertainment Licensing Authority (TELA) would depend on the employment terms of the staff concerned; (b) the future OFCA would have an establishment of around 500 staff (including posts transferred from OFTA and TELA); (c) the establishment of OFCA would not involve the creation of additional civil service posts; (d) upon the passage of the CA Bill, approval of the Establishment Subcommittee and the Finance Committee of the Legislative Council (LegCo) would be sought on the creation of the post of Director-General of Communications (DG Com) and the organizational structure of the future OFCA; and (e) LegCo's approval would be sought in accordance with established procedures in case additional posts were required. <p><u>Separate Funding arrangement for OFCA under the OFCA Trading Fund and the new General Revenue Head</u></p> <p>In response to members' enquiries, the Administration advised that:</p> <ul style="list-style-type: none"> (a) non-broadcasting related functions (the control of obscene and indecent articles, film censorship and matters relating to newspaper registration) would not be operated in the mode of a trading fund. These would continue to be funded by the Government under a new General Revenue Head; (b) the said non-broadcasting related functions currently undertaken by TELA were not under the purview of the BA; and (c) the existing post of the Director-General of Telecommunications at D6 would be replaced by the post of DG Com. <p><u>CA in enforcing the future Competition Ordinance</u></p>	

Time marker	Speaker	Subject(s)	Action required
		<p>Members noted that:</p> <p>(a) the existing competition provisions under the BO and the TO would be repealed upon the enactment of the future Competition Ordinance;</p> <p>(b) the present Competition Bill provides that the TA and the BA would have concurrent jurisdiction with the proposed Competition Commission in respect of the telecommunications and broadcasting sectors respectively, and a memorandum of understanding would be signed for the purpose of co-ordinating the performance of their functions under the Competition Ordinance; and</p> <p>(c) the concurrent jurisdiction would be taken up by the future CA upon the merger of the TA and the BA.</p>	
013540-015718	<p>Chairman Administration Ms Emily LAU Cyd HO Mr Paul TSE</p>	<p>Briefing by the Administration on its response to issues raised at the meeting on 7 December 2010 (paragraphs 1 to 7 of LC Paper No. CB(1)1026/10-11(02))</p> <p>In response to members' enquiries, the Administration advised that:</p> <p>(a) DG Com would be appointed by the Civil Service Bureau in accordance with the requirements of the job;</p> <p>(b) on members' participation in meeting by telephone, video conferencing or other electronic means, the Administration, in conjunction with the law draftsman, was exploring how best to address members' concern about all or majority of members not attending the meeting in person, and the confidentiality issues; and</p> <p>(c) the operation of the OFCA would be subject to the scrutiny of the Director of Audit.</p> <p>Discussion on the organizational structure and the distribution of business of TELA in relation to its existing functions and how those functions would be discharged (and by whom) in the future.</p>	<p>The Administration to follow up as stated in paragraphs 3(b) and (c) of the minutes.</p> <p>The Administration to follow up as stated in paragraph 3(d) of the minutes.</p>