

立法會
Legislative Council

LC Paper No. CB(1)1771/09-10
(These minutes have been seen by
the Administration)

Ref : CB1/PL/ITB/1

Panel on Information Technology and Broadcasting

Minutes of meeting
held on Monday, 8 March 2010, at 2:30 pm
in Conference Room A of the Legislative Council Building

- Members present** : Dr Hon Samson TAM Wai-ho, JP (Chairman)
Hon LEE Wing-tat (Deputy Chairman)
Hon LAU Kong-wah, JP
Hon Emily LAU Wai-hing, JP
Hon WONG Ting-kwong, BBS, JP
Hon Ronny TONG Ka-wah, SC
Hon Cyd HO Sau-lan
- Members absent** : Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon CHEUNG Man-kwong
Hon CHAN Kam-lam, SBS, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon IP Kwok-him, GBS, JP
Hon Mrs Regina IP LAU Suk-yeet, GBS, JP
- Public officers attending** : Agenda item IV
Mrs Rita LAU, JP
Secretary for Commerce and Economic Development

Mr Duncan PESCOD, JP
Permanent Secretary for Commerce and Economic
Development (Communications and Technology)

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

Mrs Marion LAI, JP
Director-General of Telecommunications

Agenda item V

Mr Duncan PESCOD, JP
Permanent Secretary for Commerce and Economic
Development (Communications and Technology)

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

Mrs Marion LAI, JP
Director-General of Telecommunications

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

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

Ms May LEUNG
Legislative Assistant (1)6

I. Confirmation of minutes of meetings

(LC Paper No. CB(1)1202/09-10 -- Minutes of special meeting held on 19 November 2009

LC Paper No. CB(1)1312/09-10 -- Minutes of meeting held on 11 January 2010)

The minutes of the meetings held on 19 November 2009 and 11 January 2010 were confirmed.

II. Information papers issued since the last meeting

(LC Paper No. CB(1)1142/09-10(01) -- Submission on fair usage policy on broadband access for mobile service from a member of the public
(Chinese version only)

LC Paper No. CB(1)1290/09-10(01) -- Submission on broadcasting rights of World Cup 2010 from a member of the public
(Chinese version only)

2. Members noted that the above papers had been issued for the Panel's information.

III. Date of next meeting and items for discussion

(LC Paper No. CB(1)1289/09-10(01) -- List of outstanding items for discussion

LC Paper No. CB(1)1289/09-10(02) -- List of follow-up actions)

3. Members noted that the next regular meeting would be held on 12 April 2010 at 2:30 pm to discuss the following items:

- (a) Digital inclusion; and
- (b) Progress report on the Digital 21 Strategy.

(Post-meeting note: At the request of the Administration and with the concurrence of the Chairman, agenda item (b) was subsequently replaced by the "Consultation report on the future operation of the Radio Television Hong Kong (RTHK) and the new RTHK Charter".)

2010 World Cup

4. Ms Emily LAU enquired about the latest development of the dispute over the television coverage of the 2010 World Cup between the broadcast rights holder (Hong Kong Cable Television Limited (HKCTV) and the two free-TV broadcasters

(Television Hong Kong Limited and Asia Television Limited). In response, the Secretary for Commerce and Economic Development (SCED) advised that the broadcasting rights of the 2010 World Cup was authorized by the football governing body (namely "FIFA") based on commercial considerations. In the two previous World Cups, the successful bidder, HKCTV, had made arrangements to sub-license the core matches to the two free-TV broadcasters on mutually agreed terms and conditions. As regards the 2010 World Cup, the Administration was given to understand that at present negotiations between the HKCTV and the two broadcasters had reached an impasse. The Broadcasting Authority (BA) was aware of the public concern about access to core World cup matches on the free-to-air television platform and had written to HKCTV drawing its attention to the relevant regulatory requirements under the Broadcasting Ordinance (BO) (Cap. 562). The Administration would closely monitor the situation, and hoped that the companies concerned would settle the issue in a way that would best serve the public interests. Ms LAU requested the Administration to keep the Panel posted of developments and suggested that if necessary, the item should be included in the agenda of the regular Panel meeting to be held in April 2010. Members agreed.

Changes in shareholding in Asia Television Limited

5. Ms Emily LAU and Mr LEE Wing-tat expressed concern about the recent press reports about the changes in ATV's shareholding and the dispute between its major shareholders. Noting that the item on "Mid-term review of the domestic free television programme service licence", originally scheduled for discussion at the Panel meeting on 12 April 2010, was deferred to May 2010, they urged the Administration to expedite the review and report to the Panel as soon as practicable.

6. In reply, SCED said that domestic free TV programme service licenses were required to notify the BA and obtain its approval of any proposed changes in shareholding and ownership. So far, the BA had not yet received any notification or application for shareholding change from ATV. The BA Secretariat had reminded the ATV management of the relevant requirement. She highlighted that ATV had been operating as usual to serve the audience with quality programmes. Moreover, the BA Secretariat had all along maintained on-going and close contacts with the TV broadcasters, including ATV, to ensure that they were capable of providing services to the public in compliance with the prevailing broadcasting regulatory requirements. As regards the mid-term review of the domestic free TV programme service licences, SCED assured members that all efforts would be made to expedite the review. She undertook to update the Panel on developments as soon as the BA had made its recommendations to the Chief Executive (CE) in Council.

Admin

7. In response to Mr LEE Wing-tat's enquiry on whether the Taiwan snack tycoon, Mr TSAI Eng-meng, had injected capital investment in ATV as initially promised, SCED said that it was not appropriate to comment on individual case in view of the uncertainty surrounding the case and the possibility of legal

proceedings involving the shareholders of ATV. She reiterated that ATV had been providing TV programme services in accordance with the statutory and licensing requirements and had been investing in their business as scheduled. In the mid-term review of the domestic free TV programme service licences, the licensees would be required to submit their plan for capital and programming investment for the coming six years for the BA's assessment. The capability of the licensees to operate, in terms of corporate competence, financial position as well as technical and programming capability, would be examined in the review.

8. Mr Ronny TONG questioned ATV's competency in competing with the other free TV licensee and in providing the viewing public with alternative choices of quality free-TV services. He enquired about the number of licences the Administration intended to grant so as to enhance competition in the free-television market. Referring to ATV's complaint against TVB for monopolization of artists and singers in the local entertainment business and advertising field, he asked when the anti-competition bill would be introduced to promote free and healthy competition in Hong Kong and provide a more level playing field for all market participants.

9. In response, SCED said that while the availability of frequency spectrum for terrestrial TV broadcasting was limited, there was no pre-set limit on the number of free-TV programme service licences to be issued. It was the Government's policy objective to bring in more competition to provide the viewing public with more programme choices. So far, two licence applications had been received and were being processed in accordance with the established procedures. As regards members' concern about unfair competition in the free-to-air TV broadcasting market, SCED said that there were already provisions in the existing BO prohibiting anti-competitive conduct and abuse of market dominance. The BO also empowered the BA to investigate into violations. Any complaints received by the BA would be seriously dealt with. In fact, the complaint lodged by ATV alleging anti-competitive conduct and abuse of dominance was being investigated by the BA.

Delegation to Taiwan

10. Ms Emily LAU enquired about the visit of a delegation to Taichung City, Taiwan, led by the Secretary for Constitutional and Mainland Affairs (SCMA) and SCED. In reply, SCED said that the visit was mainly focused on enhancing exchanges and co-operation with Taichung City on tourism matters. At Ms LAU's request, SCED would provide, in consultation with SCMA, a report on the visit for LegCo Members' information in due course.

Admin

"Echoes of Rainbow"

11. In response to the Chairman's enquiry about the gala premiere of the film "Echoes of Rainbow" which recently won the Crystal Bear award at the 2010 Berlin Film Festival, SCED said that the Film Development Council had sent out letters to all Panel members inviting them to attend a preview of the award winning

film financed by the Film Development Fund. She hoped that members could spare time to attend the premiere to show support to the success of the local film maker in the international arena.

IV. Development of digital audio broadcasting

(File Ref: CTB(CR) 9/1/7

-- Legislative Council Brief on digital audio broadcasting

LC Paper No. CB(1)1289/09-10(03) -- Paper on the implementation frameworks for the development of digital audio broadcasting and mobile television services prepared by the Legislative Council Secretariat (background brief))

Presentation by the Administration

12. At the invitation of the Chairman, SCED briefed members on the proposed implementation framework for the launch of digital audio broadcasting (DAB) and the revised implementation framework for broadcast-type mobile TV services in Hong Kong, details of which were set out in the Administration's paper (File Ref: CTB(CR) 9/1/7).

Discussion

Digital audio broadcasting

13. Mr LEE Wing-tat enquired about the Government policy on the development of DAB in Hong Kong and whether the Government would consider taking the opportunity to bring in more competition. In reply, SCED said that the Administration had been taking a market-driven approach in respect of the development of DAB in Hong Kong, and welcomed competition to provide a wide variety of radio programmes choices to consumers through DAB. There was an increased market interest in the development of DAB services, including the application for a trial permit from the Telecommunications Authority (TA) by Wave Media Limited (Wave Media) to carry out trial transmissions of DAB on Band III for a six-month period from 1 November 2009. She pointed out that to launch DAB services, broadcasters would have to invest quite heavily in digital transmission equipment. To facilitate the launch of DAB services and in order to provide territory-wide radio coverage, DAB transmitters would be co-located at the existing seven FM transmission stations. It had been made clear in the implementation framework that having regard to the capacity constraint of the existing hilltop sites and for efficient use of spectrum resources, successful applicants for the first Band III multiplex to be released would be required to share the use of the multiplex as well as to share a single set of transmission equipment to be accommodated in the existing seven FM hilltop sites. Capital and operating

costs of the infrastructural facilities would also be shared among the operators on an equitable basis. The TA might intervene and adjudicate if mutual agreement could not be reached.

14. Ms Emily LAU declared interest that she had received a free digital radio set from Wave Media. Given that digitization would free up spectrum resources that could then be re-deployed for community broadcasting, Ms LAU called on the Administration to open up airwaves to meet the rising public expectation for more direct participation in community broadcasting. Instead of participating in Radio Television of Hong Kong (RTHK) programmes moderated by RTHK programme hosts which she considered as unacceptable and undesirable, she urged the Administration to provide more platforms for different sectors of the community, social/ethnic/religious groups and non-governmental organizations to operate their own community-based radio stations covering a particular locality or region and to produce their own programmes. In this connection, she expressed concern about the Government's prosecution of FM101 and Citizens' Radio (CR) for illegal broadcasting and called on the Government to allow room for small community groups to operate their own radio stations.

15. SCED replied that commercial broadcasting which was the focus of the present discussion item was different from public service broadcasting and community broadcasting. She highlighted that the Administration recognized the strong calls from some sectors of the community for more community participation in broadcasting. In line with the Government's general mission to foster freedom of expression and encourage a plurality of voices in the community, RTHK would be tasked to devote part of its airtime and resources within the development of its digital services to provide a platform for community participation in broadcasting. Apart from dedicating more airtime for public affairs programmes to provide a platform for individuals and community groups to express and exchange their views, with RTHK's programme hosts moderating the productions, community groups could also produce their own programmes on specific themes or topics for broadcast on RTHK's channels, with different levels of support to be provided by RTHK. A Community Broadcasting Involvement Fund would be set up under RTHK to promote and facilitate local original content production and provide financial support for community groups to participate in broadcasting and programme content production. She highlighted that there was no pre-censorship in Hong Kong. RTHK would not curtail freedom of speech and expression, and due respect would be accorded to the content of the original programmes produced by community groups.

16. As regards illegal broadcasting of FM101 and CR, SCED highlighted that the Government had the responsibility to take enforcement actions to uphold the rule of law and to ensure the integrity of the licensing regime regulating the allocation and use of frequency spectrum to avoid frequency interference. She said that the analogue frequency spectrum was currently taken up by RTHK and three commercial sound broadcasting licensees for the provision of territory-wide services and there was no spare analogue frequency spectrum for the provision of further territory-wide services. Broadcasting on the Internet however was not

regulated.

Admin

17. Ms Emily LAU requested the Administration to provide information on measures implemented elsewhere in the world, such as Taiwan on assisting and facilitating independent and financially less viable community groups to participate in community broadcasting. SCED undertook to provide the requisite information and update the Panel on matters pertaining to the opening up of airwaves for community broadcasting in the context of the discussion on public service broadcasting and the future of RTHK at a future meeting.

18. In view of the possibility of having a number of operators providing DAB services and some of whom might hand out free digital radio sets to the public, the Chairman expressed concern whether the operator(s) would confine the reception of their broadcast to particular radio set(s). If such was the case, different radio sets would be needed to receive programmes of different operators, similar to the current arrangement for pay TV, which would be highly undesirable. He urged the Administration to consider legislating against such arrangements and put in place a mechanism to prevent such a conduct.

Admin

19. In reply, SCED said that operators would not be allowed to restrict the reception of certain programmes to particular receiver. A market-led approach would be adopted whereby the operators would have to attract the audience on the strength of their programme quality. At present, the retail price of a receiver was much more affordable now and appeared to be falling. On the way forward, she said that parties interested in providing DAB services via the Band III multiplex would have to submit application to the BA by 30 April 2010, after which the BA would vet the applications and make its recommendations to the CE in Council for consideration. SCED undertook to provide the Panel with an update on the latest development in due course.

20. In response to the Chairman's enquiry about the feasibility of FM regional/localized broadcasting on certain part of the Hong Kong Island, the Director-General of Telecommunications (DG of T) said that interested parties could apply and submit a proposal to the Office of the Telecommunications Authority (OFTA) for consideration in accordance with the established procedures under the Telecommunications Ordinance (TO) (Cap. 106).

Maximizing the use of spectrum allocated for the launch of Mobile TV services

21. Mr LEE Wing-tat noted the flexibility of using 25% of the transmission capacity of the spectrum allocated for mobile TV services to introduce DAB or other value-added services such as datacasting. In view of the over-supply of on-line data in the market, he expressed concern about the possible waste of the spectrum if the spectrum thus reserved was not put to use due to lukewarm response from the market.

22. In response, SCED clarified that no more than 25% of the spectrum allocated in the mobile TV context could be used for other value-added services. She said that the financial crisis last year had forced interested parties to rethink plans to offer mobile TV services. In the light of the latest market development and the proposed release of Band III frequencies for DAB services, the implementation framework for broadcast-type mobile TV had been revised. Only one UHF Band frequency would now be released for the introduction of broadcast-type mobile TV. The Government would remove the flexibility for introducing DAB services in the mobile TV context, and adjust the ceiling allowed for providing other value-added communications services downward from 50% to 25% of the spectrum allocated. She said that it was the commercial decision of individual service provider/network operator to decide whether to bid for the spectrum. Some providers had already indicated interest in providing the service.

23. DG of T added that auction was a fair and efficient method for the allocation of frequency spectrum as a scarce public resource to ensure level-playing field whenever there was competing demand for spectrum for non-government services. A reserve price would be set, 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. In normal circumstances, the successful bidder would make the best use of the spectrum available to maximize the return. Moreover, to prevent spectrum hoarding and to maximize effective use of the spectrum allocated, successful bidders would be required to achieve a prescribed coverage (50% of the population) within 18 months from the grant of a licence. OFTA would announce details on the auction of the spectrum for mobile TV which would be held in the second quarter of 2010.

V. Landing of submarine cables

(LC Paper No. CB(1)1289/09-10(04) -- Administration's paper on landing of submarine cables

LC Paper No. CB(1)1289/09-10(05) -- Paper on issues relating to the landing of submarine cables prepared by the Legislative Council Secretariat (background brief)

LC Paper No. CB(1)1318/09-10 -- Administration's paper on landing of submarine cables (power-point presentation materials))
(tabled at the meeting and subsequently issued via email on 8 March 2010)

Presentation by the Administration

24. With the aid of power-point, the Permanent Secretary for Commerce and Economic Development (Communications and Technology) (PSCED(CT)), and Head, Regulatory 1 of the Office of Telecommunications Authority, (HR1/OFTA)

briefed members on the preliminary findings of a consultancy study commissioned by OFTA on the landing of submarine cables in Hong Kong, and the recommended measures to facilitate and promote the landing of more submarine cables in the territory.

(Post-meeting note: The power-point presentation materials were tabled at the meeting and subsequently issued to members vide LC Paper No. CB(1)1318/09-10 on 8 March 2010).

Discussion

Measures to enhance the competitiveness of Hong Kong

25. Ms Emily LAU enquired about the number of government departments that would be involved in processing applications for landing new submarine cables in Hong Kong, the average processing time for such applications as compared with other countries in the region such as Singapore. She supported the recommendation to streamline the application procedures for landing new submarine cables in Hong Kong, whereby OFTA would offer a single-point-of-contact service coordinating with the relevant government departments to expedite the approval processes. She urged the Administration to implement the recommended measures as soon as practicable to avoid losing out to other competitors in the region such as Singapore, Taiwan and the Mainland cities. She said that a performance pledge should be set for processing an application.

26. In response, DG of T advised that depending on the nature and scope of the project, parties interested in landing new submarine cables in Hong Kong had to approach various government departments including the Lands Department, Environmental Protection Department, Marine Department, Agricultural, Fisheries and Conservation Department, Home Affairs Department and Leisure and Cultural Services Department. In the case of building a new submarine cable landing station (SCLS), some more departments would be involved. To enhance collaboration and coordination among various parties and expedite the approval process, the consultant recommended establishing an ad-hoc working group with representatives from relevant government departments and parties to deal with the application received. OFTA was following up on the recommendation. She highlighted that while OFTA would serve as a single-point-of-contact for applicants, the processing of such applications involved different departments and had to be vetted in accordance with their respective procedures and related legislations. OFTA would meet with the relevant departments to explore how they could speed up the vetting process, such as reminding the applicant to make available the necessary information in a timely manner.

27. On competition within the region, DG of T said that Singapore had already undertaken preliminary environment impact assessments and sea-bed studies which would significantly reduce the application processing time. She pointed out that Hong Kong and Singapore each had its own unique role in the region and served different geographical markets. PSCED(CT) added that while Singapore would

serve as a link with India, Thailand, Indonesia and Malaysia, Hong Kong, which was centrally located between Japan, South Korea and Southeast Asia, would serve as a natural geographic hub for these economies as well as a gateway for the Mainland. He pointed out that apart from Singapore, some other Mainland cities such as Shanghai and Shantou could be the competitors of Hong Kong for cable landing points. Nonetheless, Hong Kong was highly valued for its stable and pro-business environment, free market approach, transparent regulatory and judiciary systems as well as its position as a regional financial centre, high concentration of regional corporate headquarters, and technology savvy consumers. All these factors were conducive to the growth of the submarine cable industry in Hong Kong. The Administration would continue to build on these strengths to drive the development of the submarine cable industry in Hong Kong.

28. Ms Emily LAU expressed grave concern that Hong Kong would lose out to other competitors in the region, and urged the Administration to step up the development of telecommunications infrastructure to support the growth of the service industries. In response, DG of T said that the SCLS at Tseung Kwan O Industrial Estate (TKOIE) was spacious and could offer the necessary physical diversity. Potential sites were also available at the Chung Hom Kok Teleport for setting up new SCLS. At present, the main focus was to step up the efforts to attract the landing of new submarine cables by streamlining the applications procedures, increasing the transparency of application processes, enhancing coordination within Government to expedite approval processes, so as to make it simpler and speedier for interested cable companies to install new submarine cables with or without affiliated data centres in Hong Kong. She assured members that every effort would be made to attract the landing of more submarine cables in Hong Kong to capitalize on the anticipated high growth in demand for external bandwidth from the Mainland and Southeast Asia. Upon the completion of the consultancy study in end March 2010, OFTA would review the consultancy report and further discuss with the relevant stakeholders on how best to take forward the recommendations.

29. The Chairman referred to the telecommunications service industry's suggestion on the shared use of the existing SCLSs and the new SCLS at TKOIE for landing additional submarine cables, and the co-location of SCLS with affiliated data centres. He enquired about the current land lease restrictions in TKOIE and whether legislative amendment was necessary to change the current lease conditions.

30. In response, DG of T explained that the existing operator was restricted by the current land lease from subletting the vacant space in the SCLS at TKOIE for submarine cables landing. In this respect, the consultant recommended the relaxation of the lease conditions of SCLS at TKOIE to allow shared use of the SCLS for landing new submarine cables and co-location of affiliated data centres. OFTA was working with the Hong Kong Science and Technology Parks Corporation (HKSTPC), which managed the TKOIE, to take forward this recommendation. PSCED(CT) added that regulation required the industrial estates to provide land for selected types of industry which otherwise could not find

suitable sites in the open market. As regards the lease restrictions for land within the industrial estates, they would be reviewed by the Board of the HKSTPC.

31. Mr WONG Ting-kwong noted that submarine cable systems that landed in Hong Kong had increased from seven in 2006 to nine as at to date while Singapore currently had 13 cable systems. He asked whether the Government had any mid-term plan or projection on the number of submarine cables to be landed in Hong Kong, and whether any of the existing nine cable systems were owned by companies registered in Hong Kong.

32. DG of T advised that there was no preset target for the number of submarine cables to be landed in Hong Kong. Building submarine cable systems which involved huge investment amounting to a few billion Hong Kong dollars per cable system was basically a commercial decision to be determined by supply and demand. There was an oversupply of submarine cable capacity during and after the dot-com bubble. However, the demand for submarine cable capacity in Hong Kong had been on the rise due to the increasing bandwidth requirements for business and the popularity of Web 2.0 applications over the Internet, point-to-point file sharing and video streaming. The existing nine cable systems which routed through Hong Kong were mainly owned by multinational companies with the landing party being a company registered in Hong Kong.

Economic benefits

33. Mr Ronny TONG enquired about the economic benefits for landing more submarine cables in Hong Kong, and whether a licence fee would be charged on the telecommunications service providers. In reply, HR1/OFTA advised that submarine cable connections were of vital importance in supporting the operation of Hong Kong's key service industries. According to the consultancy study, submarine cables would play a crucial role in creating 8 000 jobs, generate an estimated total direct and indirect revenue in the region of \$14 billion across the sectors, as well as an added value of \$6.3 billion to the economy of Hong Kong.

34. HR1/OFTA further advised that the telecommunications service sector was market-driven and highly competitive. In view of the rising demand for bandwidth and the rapid growth of external traffic between the Mainland and southeast Asian countries routing through Hong Kong (with an average annual growth of 46% and 57% respectively for the equipped and activated submarine cable capacity of Hong Kong between September 2005 and September 2009), the landing of additional submarine cables in Hong Kong would provide the necessary supply and widen consumers' choice of services. DG of T added that the retail price of telecommunications service in Hong Kong was affordable and at a relatively low level compared to that of other economies in the region.

35. In this connection, the Chairman said that the landing of more submarine cables in Hong Kong would not only provide consumers with more choices of competitive services, but also benefit Hong Kong's economy and strengthen Hong Kong's position as a regional telecommunications hub.

Regulatory regime

36. Mr Ronny TONG enquired about the regulatory regime, and whether a unified licensing mechanism would be put in place for vetting the applications received. DG of T and HR1/OFTA advised that while OFTA would be the licensing authority for the issue of the fixed/unified carrier licences for the provision of external fixed services and be responsible for telecommunications regulatory matters, the applications for landing new cables would inevitably involve various government departments as the work covered a wide range of issues such as land acquisition, approvals for the laying of submarine cables through the waters of Hong Kong, landing at an existing SCLS, or building a new SCLS. The applications would therefore be vetted and considered by individual relevant departments in accordance with their established procedures and statutory requirements. As such, there would not be a unified licensing regime for submarine cable landing.

VI. Any other business

37. There being no other business, the meeting ended at 4:00 pm.

Council Business Division 1
Legislative Council Secretariat
30 April 2010