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Panel on Information Technology and Broadcasting

Meeting on 11 January 2010

Background brief on the establishment of the proposed Communications Authority

Purpose

This paper summarizes previous discussions by Members on the establishment of the proposed Communications Authority (CA).

Background

2. On 3 March 2006, the Administration published a consultation paper to seek public views on the Government's proposal to merge the Broadcasting Authority (BA) and Telecommunications Authority (TA) into a unified regulator (i.e. the Communications Authority (CA)) for efficient, effective and co-ordinated regulation of a converging electronic communications sector. The proposed CA would be tasked to promote the interests of consumers, ensure fair competition in the market and facilitate innovation and investment in the communications industry. As a unified regulatory body for the entire electronic communications sector, the CA would serve the interests of Hong Kong in an era of convergence and deregulation.

3. According to the Administration, a staged approach would be adopted under which the CA, upon its establishment, would continue to enforce the existing Broadcasting Ordinance (BO) (Cap. 562) and Telecommunications Ordinance (TO) (Cap. 106) and administer all the matters currently fall under the purview of the BA and TA. The CA would be tasked to review and rationalize the BO and TO with the Administration. In particular, the separate competition regimes set out respectively under the BO and TO as well as consolidation of the competition provisions and the appeal mechanism on competition matters would be rationalized to ensure consistency and effectiveness in handling competition matters of the telecommunications and broadcasting sectors.

4. On the governance structure, the Administration proposed that the CA would comprise seven members: a non-official Chairman, four non-official members and one official member appointed by the Chief Executive, and the Director-General of the executive department as the ex-officio member. The Office of the Telecommunications Authority and the Broadcasting Division of the Television and Entertainment Licensing Authority would be amalgamated into a new government department called the Office of the Communications Authority, operating as a trading fund. Headed by a public officer ranked at D6 as the Director-General, the department would be the executive arm of the CA. Enabling legislation would be enacted to establish the CA, abolish the BA and TA, and repeal the Broadcasting Authority Ordinance (Cap. 391). A relevant Communications Authority Bill would be introduced into the Legislative Council (LegCo) for scrutiny.

Previous discussions

5. The Panel on Information Technology and Broadcasting (the Panel) has followed closely the progress on the proposed merging of the BA and the TA into a unified regulatory body since 2006. The Panel supports in principle the Administration's proposal on the establishment of the CA.

6. At the Panel meetings held on 17 March and 12 June 2006, the Panel discussed with the Administration and deputations from the telecommunications and broadcasting industries on the proposed merger of the BA and the TA into a unified regulator (i.e. the CA) in the face of convergence at the technological and market levels. The Panel noted that the industry operators were generally supportive of the Administration's intention to adopt a proactive, but light, regulatory approach, taking into account an international paradigm shift from active regulation based on detailed rules to a more relaxed approach with emphasis on fair competition.

7. While Panel members accepted that the regulatory approach should be on par with international best practice, they reminded that the Administration should not lose sight of the need for the CA to uphold its public mission to promote competition, innovation and investment in the communications market as well as protection of freedom of speech and consumers' interests.

8. On manpower implications, the Panel noted the Administration's intention to avoid laying off staff as a result of the proposed merger of the BA and the TA. Some Panel members, however, urged that the Administration should still pursue efficiency initiatives to streamline operation and achieve savings.

9. The Panel was also concerned about the proposed governance structure of the CA. Some Panel members urged that the eligibility criteria for appointment as non-official members of the CA should be clearly spelt out and preferably stipulated in the future Bill to be introduced for the establishment of the CA. In view that it was current trend to separate the role of the Chairman of a statutory body from that of its executive arm, some Panel members considered that the roles and responsibilities

of the Chairman and Director-General of the CA should be clearly delineated. They also considered that the CA Chairman should receive a reasonable remuneration commensurate with the requirements of the post. Some Panel members also expressed the view that provisions requiring the CA Chairman and the Director-General to attend meetings of LegCo committees should be included in the Bill. The Administration advised the Panel that it would take into consideration members' views in finalizing the proposed Bill.

10. Hon Howard YOUNG raised a question on the establishment of the CA at the Council meeting on 17 January 2007. The Hon Member expressed concern about the anticipated impact of the establishment of the CA on the industries and the public. He urged the Administration to submit details of the implementation plan of the merging of the BA and the TA as well as the legislative timetable for establishing the CA as soon as possible.

Latest position

11. The Administration will brief the Panel on 11 January 2010 on the latest progress of the proposal to establish the CA.

Relevant papers

Legislative Council brief provided by the Administration for the Information Technology and Broadcasting Panel meeting on 17 March 2006
http://www.legco.gov.hk/yr05-06/english/panels/itb/papers/ctb_cr_9_19_13_05_pt4-e.pdf

Minutes of Information Technology and Broadcasting Panel meeting on 17 March 2006
<http://www.legco.gov.hk/yr05-06/english/panels/itb/minutes/itb060317.pdf>

Submissions from deputations for the Information Technology and Broadcasting Panel meeting on 12 June 2006 (Please refer to the agenda)
<http://www.legco.gov.hk/yr05-06/english/panels/itb/agenda/itag0612.htm>

Minutes of Information Technology and Broadcasting Panel meeting on 12 June 2006
<http://www.legco.gov.hk/yr05-06/english/panels/itb/minutes/itb060612.pdf>

Hon Howard YOUNG's question on "Establishment of Communications Authority" at the Council meeting on 17 January 2007 and the Administration's reply
<http://www.legco.gov.hk/yr06-07/english/counmtg/hansard/cm0117-translate-e.pdf>