

立法會
Legislative Council

LC Paper No. CB(2) 23/11-12

Ref : CB2/H/5/10

House Committee of the Legislative Council

**Minutes of the 30th meeting
held in Conference Room 1 of the Legislative Council Complex
at 2:30 pm on Friday, 7 October 2011**

Members present:

Hon Miriam LAU Kin-ye, GBS, JP (Chairman)
Hon Fred LI Wah-ming, SBS, JP (Deputy Chairman)
Hon Albert HO Chun-yan
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon LEE Cheuk-yan
Dr Hon David LI Kwok-po, GBM, GBS, JP
Dr Hon Margaret NG
Hon James TO Kun-sun
Hon CHEUNG Man-kwong
Hon CHAN Kam-lam, SBS, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
Hon LEUNG Yiu-chung
Hon WONG Yung-kan, SBS, JP
Hon LAU Kong-wah, JP
Hon LAU Wong-fat, GBM, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon TAM Yiu-chung, GBS, JP
Hon LI Fung-ying, SBS, JP
Hon Tommy CHEUNG Yu-yan, SBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon Vincent FANG Kang, SBS, JP
Hon WONG Kwok-hing, MH
Hon LEE Wing-tat
Dr Hon Joseph LEE Kok-long, SBS, JP
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon Andrew LEUNG Kwan-yuen, GBS, JP
Hon CHEUNG Hok-ming, GBS, JP
Hon WONG Ting-kwong, BBS, JP

Hon Ronny TONG Ka-wah, SC
Hon CHIM Pui-chung
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon KAM Nai-wai, MH
Hon Cyd HO Sau-lan
Hon Starry LEE Wai-king, JP
Dr Hon LAM Tai-fai, BBS, JP
Hon CHAN Hak-kan
Hon Paul CHAN Mo-po, MH, JP
Hon CHAN Kin-por, JP
Dr Hon Priscilla LEUNG Mei-fun, JP
Dr Hon LEUNG Ka-lau
Hon CHEUNG Kwok-che
Hon WONG Sing-chi
Hon WONG Kwok-kin, BBS
Hon IP Wai-ming, MH
Hon IP Kwok-him, GBS, JP
Hon Mrs Regina IP LAU Suk-yea, GBS, JP
Dr Hon PAN Pey-chyou
Hon Paul TSE Wai-chun, JP
Dr Hon Samson TAM Wai-ho, JP
Hon Alan LEONG Kah-kit, SC
Hon Tanya CHAN

Members absent:

Dr Hon Philip WONG Yu-hong, GBS
Hon Andrew CHENG Kar-foo
Hon Abraham SHEK Lai-him, SBS, JP
Hon Frederick FUNG Kin-kee, SBS, JP
Hon LEUNG Kwok-hung
Hon Albert CHAN Wai-yip
Hon WONG Yuk-man

Clerk in attendance :

Miss Odelia LEUNG Clerk to the House Committee

Staff in attendance :

Ms Pauline NG Secretary General

Mr Jimmy MA, JP	Legal Adviser
Mrs Constance LI	Assistant Secretary General 1
Mrs Justina LAM	Assistant Secretary General 3
Mrs Percy MA	Assistant Secretary General 4
Ms Connie FUNG	Senior Assistant Legal Adviser 1
Mr Arthur CHEUNG	Senior Assistant Legal Adviser 2
Mr KAU Kin-wah	Senior Assistant Legal Adviser 3
Mr Stephen LAM	Principal Council Secretary (Complaints)
Mr Simon WONG	Chief Public Information Officer
Ms Amy YU	Chief Council Secretary (2)6
Mr Timothy TSO	Assistant Legal Adviser 2
Mr Bonny LOO	Assistant Legal Adviser 3
Miss Carrie WONG	Assistant Legal Adviser 4
Miss Kitty CHENG	Assistant Legal Adviser 5
Ms Wendy KAN	Assistant Legal Adviser 6
Miss Winnie LO	Assistant Legal Adviser 7
Mr YICK Wing-kin	Assistant Legal Adviser 8
Ms Clara TAM	Assistant Legal Adviser 9
Ms Judy TING	Council Secretary (2)6
Mr Ringo LEE	Senior Legislative Assistant (2)1
Ms Theresa CHEUNG	Senior Legislative Assistant (2)2
Ms Anna CHEUNG	Senior Legislative Assistant (2)3
Mr Arthur KAN	Legislative Assistant (2)8
Ms CHAU Kwan-bing	Legislative Assistant (2)9

Action

The moving of a procedural motion

The Chairman said that given the much larger size of the Legislative Council Complex than the old Legislative Council Building, some Members had expressed concern that the existing duration of the voting bell did not allow sufficient time for Members to return to the meeting venue to vote on a matter. To address Members' concern, the Deputy Chairman had given notice of his intention to move a procedural motion on suspension of subrules (i) and (j) of House Rule 24 at the beginning of the House Committee meeting. The wording of the motion had been issued to Members vide LC Paper No. CB(2) 2712/10-11 on 6 October 2011.

2. At the invitation of the Chairman, the Deputy Chairman elaborated on his motion. He said that the motion sought to suspend subrules (i) and (j) of House Rule 24 with immediate effect until the House Committee decided to reactivate or amend the subrules, and to adopt the following arrangements during the period of the suspension of the subrules –

- (a) before a matter was voted upon at a committee meeting, a voting bell should be rung for five minutes if the chairman ordered, on his own motion or upon request of a member of the committee, that the members of the committee be notified of the voting; and
- (b) where the voting bell did not function, the committee chairman concerned should order the clerk to arrange for members of the committee within the precincts of the Chamber to be notified of the voting. The voting should be held 10 minutes after the order had been made.

3. The Deputy Chairman added that should the motion be passed, the suspension of the subrules and the relevant arrangements would also apply to Panels, Bills Committees and subcommittees appointed under the House Committee or Panels.

4. The Chairman put the motion to vote. All Members present supported the motion. The Chairman declared that the motion was passed.

I. Confirmation of verbatim transcript/minutes of meetings

- (a) **Minutes of the 29th meeting held on 8 July 2011**
(LC Paper No. CB(2) 2688/10-11)
- (b) **Verbatim transcript of the special meeting held on 11 July 2011**
(LC Paper No. CB(2) 2489/10-11)
- (c) **Minutes of the special meeting held on 1 September 2011**
(LC Paper No. CB(2) 2689/10-11)

5. The three sets of minutes of meetings/verbatim transcript were confirmed.

II. Matters arising

Report by the Chairman on her meeting with the Chief Secretary for Administration ("CS")

- 6. The Chairman said that there was nothing special to report.
- 7. Ms Emily LAU said that the newly appointed CS, Mr Stephen LAM, should attend a House Committee meeting as soon as practicable. She requested the Chairman to relay her view to CS.

8. The Chairman said that it was the established practice for CS to attend two special meetings of the House Committee during each session to exchange views with Members. She would relay to CS Members' request for him to attend a House Committee meeting as soon as practicable and more than two House Committee meetings in the next session.

III. Business arising from previous Council meetings

Legal Service Division report on bill referred to the House Committee in accordance with Rule 54(4) of the Rules of Procedure

(a) Personal Data (Privacy) (Amendment) Bill 2011
(LC Paper No. LS 95/10-11)

9. The Chairman said that the Bill sought to impose additional requirements on a data user in the use, or transfer of the personal data of data subjects to other persons, for direct marketing or in the sale of such data. The Panel on Constitutional Affairs had been consulted on the relevant issues at a number of its meetings, including receiving a briefing on the report on the further public consultation and the legislative proposals at its meeting in April 2011. Panel members had raised various concerns on the proposals.

10. Ms Emily LAU considered it necessary to form a Bills Committee to study the Bill in detail. Members agreed. The following Members agreed to join the Bills Committee: Mr James TO, Ms Emily LAU, Mr Vincent FANG and Ms Cyd HO.

11. The Chairman said that as there were three vacant slots, the Bills Committee could commence work immediately.

(b) Immigration (Amendment) Bill 2011
(LC Paper No. LS 94/10-11)

12. The Chairman said that the Bill sought to provide for a statutory framework for determining claims made by persons in Hong Kong for protection under Article 3 of the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment against expulsion, return or extradition of the claimant to countries in which they would be in danger of being subjected to torture. The Panel on Security had been consulted on the legislative proposals at its meetings on 12 April and 5 July 2011, and members had expressed various views and concerns.

13. Dr Margaret NG considered it necessary to form a Bills Committee to study the Bill in detail. Members agreed. The following Members agreed to join the Bills Committee: Dr Margaret NG, Mr James TO, Ms Emily LAU and Ms Cyd HO.

14. The Chairman said that as there were vacant slots, the Bills Committee could commence work immediately.

(c) Protection of Wages on Insolvency (Amendment) Bill 2011
(LC Paper No. LS 97/10-11)

15. The Chairman said that the Bill sought to amend the Protection of Wages on Insolvency Ordinance to provide for ex gratia payment from the Protection of Wages on Insolvency Fund in respect of untaken statutory holidays and untaken annual leave subject to certain limitations. The Panel on Manpower had been consulted on the legislative proposals at its meeting on 26 April 2010. While members were generally supportive of the proposals, some members considered them inadequate.

16. Mr WONG Kwok-hing considered it necessary to form a Bills Committee to study the Bill in detail. Members agreed. The following Members agreed to join the Bills Committee: Mr LEUNG Yiu-chung, Ms LI Fung-ying, Mr WONG Kwok-hing, Mr IP Kwok-him and Dr PAN Pey-chyou.

17. The Chairman said that as there was a vacant slot, the Bills Committee could commence work immediately.

(d) Road Traffic (Amendment) (No. 2) Bill 2011
(LC Paper No. LS 96/10-11)

18. The Chairman said that the Bill sought to introduce a package of measures to improve the safety of operation of public light buses ("PLBs"). The Panel on Transport had been consulted on the proposals at its meetings on 26 November 2009 and 25 February 2011. While members in general expressed support for the proposals, some members opined that "blackbox" should be included as a basic equipment of all PLBs instead of only newly registered PLBs.

19. Mr WONG Kwok-hing considered it necessary to form a Bills Committee to study the Bill in detail. Members agreed. The following members agreed to join the Bills Committee: Ms Miriam LAU, Ms LI FUNG-ying, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Mr WONG Sing-chi (as advised by the Deputy Chairman) and Miss Tanya CHAN.

20. The Chairman said that as the quota of 16 Bills Committees had been filled, the Bills Committee on this Bill would be placed on the waiting list.

(e) The Hong Kong Polytechnic University (Amendment) Bill 2011

(LC Paper No. LS 98/10-11)

21. The Chairman said that this was a Member's Bill sponsored by Dr LAM Tai-fai. The Bill sought to revise, among others, the composition of the Council of The Hong Kong Polytechnic University ("PolyU"). The Panel on Education had been consulted at its meeting on 9 November 2009. Some of the views expressed by the staff association of PolyU had been incorporated into the Bill. Some drafting issues had been raised with PolyU and its response was awaiting.

22. Ms Cyd HO considered it necessary to form a Bills Committee to study the Bill in detail. Members agreed. The following Members agreed to join the Bills Committee: Mr CHEUNG Man-kwong, Ms Audrey EU, Ms Cyd HO and Ms Starry LEE.

23. The Chairman said that the Bills Committee on this Bill would also be placed on the waiting list.

IV. Legal Service Division reports on subsidiary legislation gazetted between 8 July and 9 September 2011, and Interpretation of Paragraph 1, Article 13 and Article 19 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China by the Standing Committee of the National People's Congress published in the Gazette as Legal Notice No. 136 of 2011 on 16 September 2011

(LC Paper Nos. LS 99 and LS 101/10-11)

Legal Service Division report on subsidiary legislation gazetted between 8 July and 9 September 2011

24. The Chairman said that a total of 10 items of subsidiary legislation were gazetted between 8 July and 9 September 2011. Of these, four items were tabled in the Council on 13 July 2011, three items would be tabled in the Council on 12 October 2011 and three items were not required to be tabled in the Council.

25. Regarding the Securities and Futures (Contracts Limited and Reportable Positions) (Amendment) Rules 2011, the Chairman said that they were to amend the principal Rules by repealing the existing Schedule 1 and Schedule 2 and substituting each Schedule with a new one. Schedule 1 and Schedule 2 specified respectively the prescribed limits and reportable positions in respect of futures and options contracts.

26. Mr James TO considered it necessary to form a subcommittee to study the Rules in detail. Members agreed. The following Members agreed to join the subcommittee: Mr James TO and Mr CHIM Pui-chung.

27. The Chairman said that the Secretariat would issue a circular to invite Members to join the proposed subcommittee. Should less than three Members join the subcommittee by the deadline for signification of membership, the subcommittee would not be formed in accordance with the House Rules. Members noted the arrangement.

28. As the deadline for amending the Rules was 19 October 2011, the Chairman proposed to move in her capacity as Chairman of the House Committee a motion at the Council meeting of 19 October 2011 to extend their scrutiny period to 9 November 2011. Members agreed.

29. Members did not raise any queries on the other nine items of subsidiary legislation.

Legal Service Division report on Interpretation of Paragraph 1, Article 13 and Article 19 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China by the Standing Committee of the National People's Congress published in the Gazette as Legal Notice No. 136 of 2011 on 16 September 2011

30. The Chairman said that in response to the concern raised by Members at the House Committee meeting on 17 June 2011, the Legal Service Division had written to the Administration to request for a brief on the procedure that had been adopted for making reference to the Standing Committee of the National People's Congress ("SCNPC") for an interpretation of Paragraph 1, Article 13 and Article 19 of the Basic Law ("BL") in the case concerned for Members' information. The brief provided by the Administration had been issued to Members.

31. Dr Margaret NG said that as the matter had significant bearing on the development of the legal system in Hong Kong, she had earlier on written to the Secretary for Justice ("SJ") inviting him to the Panel on Administration of Justice and Legal Services ("the AJLS Panel") to

explain the relevant procedure. SJ then considered it inappropriate to do so as the final judgment on the case was pending at the time. As SCNCP had already issued its Interpretation, she proposed that SJ be invited to attend a meeting of the AJLS Panel or the House Committee to brief Members on the matter.

32. Members agreed that SJ be invited to a meeting of the AJLS Panel to brief Members on the matter, and all Members be invited to attend the meeting.

33. Ms Emily LAU requested the Secretariat to prepare relevant background information to facilitate Members' discussion of the matter.

V. Business for the Council meeting of 12 October 2011

The Chief Executive's Policy Address

34. The Chairman said that the Chief Executive ("CE") would deliver his Policy Address at the Council meeting of 12 October 2011.

VI. The Chief Executive's Question and Answer Session on 13 October 2011

35. The Chairman said that the CE's Question and Answer Session would be held from 3:00 pm to 4:30 pm, and CE would answer questions on his Policy Address.

VII. Business for the Council meeting of 19 October 2011

(a) Questions (*LC Paper No. CB(3) 11/11-12*)

36. The Chairman said that 20 questions (six oral and 14 written) had been scheduled for the meeting.

(b) Bills - First Reading and moving of Second Reading

37. The Chairman said that no notice had been received yet.

(c) Government motion

38. The Chairman said that no notice had been received yet.

(d) **Members' motions**

(i) **Proposed resolution to be moved by Hon WONG Sing-chi under section 34(4) of the Interpretation and General Clauses Ordinance relating to the:**

- **Residential Care Homes (Persons with Disabilities) Regulation; and**
- **Residential Care Homes (Persons with Disabilities) Ordinance (Commencement) Notice 2011**

(Wording of the proposed resolution issued vide LC Paper No. CB(3) 12/11-12 dated 3 October 2011.)

39. The Chairman said that Mr WONG Sing-chi, Chairman of the relevant Subcommittee, would move a motion at the Council meeting to extend the scrutiny period of the two items of subsidiary legislation to 9 November 2011.

(ii) **Motion to be moved by Hon Alan LEONG Kah-kit**

40. The Chairman said that the subject of the motion to be moved by Mr Alan LEONG was "Calling upon persons intending to run in the Chief Executive Election to respond to people's aspirations".

(iii) **Motion to be moved by Hon WONG Ting-kwong**

41. The Chairman said that the subject of the motion to be moved by Mr WONG Ting-kwong was "Opposing foreign domestic helpers' enjoyment of the right of abode in Hong Kong".

42. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was Wednesday, 12 October 2011.

Report on study of subsidiary legislation

43. The Chairman invited Members to note the list of eight items of subsidiary legislation tabled at the meeting, the scrutiny period of which would expire on 19 October 2011. Members who wished to speak on the subsidiary legislation should indicate their intention by 5:00 pm on Tuesday, 11 October 2011.

VIII. Position on Bills Committees and subcommittees

(LC Paper No. CB(2) 2690/10-11)

44. The Chairman said that there were 16 Bills Committees, eight subcommittees under the House Committee (i.e. three subcommittees on subsidiary legislation, two subcommittees on policy issues and three subcommittees on other Council business) and 10 subcommittees under Panels in action.

45. The Chairman invited Members to note that the following nine Bills Committees would have to work beyond three months since commencement of their work –

- (a) Bills Committee on Inland Revenue (Amendment) (No. 2) Bill 2011;
- (b) Bills Committee on Lifts and Escalators Bill;
- (c) Bills Committee on Enduring Powers of Attorney (Amendment) Bill 2011;
- (d) Bills Committee on Road Traffic (Amendment) Bill 2011;
- (e) Bills Committee on Pyramid Schemes Prohibition Bill;
- (f) Bills Committee on Legislative Council (Amendment) Bill 2011;
- (g) Bills Committee on Guardianship of Minors (Amendment) Bill 2011
- (h) Bills Committee on Copyright (Amendment) Bill 2011; and
- (i) Bills Committee on Securities and Futures (Amendment) Bill 2011.

IX. Election of members of The Legislative Council Commission

(LC Paper No. AS 368/10-11)

46. Members agreed that the election of members of The Legislative Council Commission would be held at the House Committee meeting on 21 October 2011.

X. Filling of vacancy in the membership of the Public Accounts Committee

(LC Paper No. PAC 1/11-12)

47. At the invitation of the Chairman, Mr Paul CHAN, Deputy Chairman of the Public Accounts Committee ("PAC"), said that Mr Andrew CHENG had given notification of his withdrawal from PAC with effect from the 2011-2012 session. As a result, there was a need to elect a Member to fill the vacancy in PAC. The paper sought Members' endorsement for the election to be held at the House Committee meeting on 14 October 2011 in accordance with the agreed procedure.

48. Members agreed to the proposed date of election for filling the vacancy in the membership of PAC.

XI. Proposal of Hon Emily LAU Wai-hing concerning the appointment of a select committee to inquire into issues relating to Asia Television Limited's misreporting on the death of Mr JIANG Zemin and its improper broadcast of "paid news"

(Letter dated 3 October 2011 from Hon Emily LAU Wai-hing to the Chairman of the House Committee (LC Paper No. CB(2) 2692/10-11(01)))

49. At the invitation of the Chairman, Ms Emily LAU said that there was wide public concern about the complaints relating to Asia Television Limited ("ATV")'s misreporting on the death of Mr JIANG Zemin. Mr LEUNG Ka-wing, former Senior Vice President (News & Public Affairs) of ATV, indicated on a radio programme that he had been put under pressure to broadcast the news on the death of Mr JIANG Zemin. The source of the news might be an individual at ATV. At the special meeting of the Panel on Information Technology and Broadcasting ("the Panel") held a few days before the radio programme, Mr James SHING Pan-yu, Executive Director of ATV, said that he himself, Mr WANG Zheng and Mr KWONG Hoi-ying were not the source. Mr LEUNG Ka-wing, however, indicated that he and Mr James SHING Pan-yu had different understanding on the source. Ms LAU considered that the Legislative Council ("LegCo") should conduct an inquiry into why Mr LEUNG Ka-wing, as head of ATV's News Department, had no control over the broadcast of news reports. The inquiry should also cover the complaints about the inclusion of advertising materials in ATV's news programmes. The public had confidence in LegCo in conducting the inquiry in a just, fair and open manner. She was confident that with the protection under the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) ("P&P Ordinance"), Mr LEUNG and the persons

concerned would be willing to assist LegCo in its inquiry. She pointed out that while the Broadcasting Authority ("BA") was investigating into the matter, it was a closed-door investigation the scope of which might not be as wide as that of the LegCo's inquiry. Citing a recent survey conducted by the University of Hong Kong which revealed a significant drop in public confidence in freedom of the press, she stressed that it was incumbent upon LegCo to inquire into the matter. She appealed to Members to support her proposal. She added that should the House Committee support her proposal, the motion for the appointment of a select committee would be moved by the Chairman of the House Committee.

50. The Chairman said that Ms Emily LAU had written to seek the House Committee's support for her proposal for moving a motion at the Council meeting of 19 October 2011 to appoint a select committee to inquire into the matter. As the deadline for giving notice to move a motion at that Council meeting was 3 October, Ms Emily LAU had given notice for moving the motion. The President had yet to rule on the motion.

51. Mr WONG Ting-kwong said that the matter concerning ATV had been discussed at the special Panel meeting, which was attended by Mr LEUNG Ka-wing and the persons concerned. At the meeting, Mr LEUNG clarified that he had used inappropriate expression in his earlier statement made upon his resignation. In Mr WONG's view, the public knew clearly what had happened and it was not necessary for LegCo to invoke the powers under the P&P Ordinance to inquire into the matter.

52. Mr LEE Wing-tat said that he had attended the special Panel meeting. He did not agree to the view that the public knew clearly what had happened. Mr LEUNG Ka-wing indicated at the Panel meeting that Mr James SHING Pan-yu, Mr WANG Zheng and Mr KWONG Hoi-ying were not the source of the news. However, a few days later, Mr LEUNG said on radio that he and Mr James SHING Pan-yu had different understanding on the source. There were different versions of what had happened and so far there was no conclusion. As a media person, Mr LEUNG would not under normal circumstances disclose the source of the news, unless he was summoned to do so under the P&P Ordinance. Having regard to the above considerations, Mr LEE considered it necessary for LegCo to conduct an inquiry to find out the truth.

53. Mr CHEUNG Man-kwong pointed out that there were contradictions between what Mr LEUNG Ka-wing had said at the special Panel meeting and on radio. Mr LEUNG told members at the special meeting that ATV's management had not interfered with the operation of

its News Department. However, in a radio interview aired a few days later, Mr LEUNG implied that there was interference from ATV's management and indicated that he and ATV's management differed on who the source of the news was. The questions at stake were whether ATV had interfered with editorial independence of news reporting and whether it had broadcast "paid news". Given the contradictory statements given by Mr LEUNG Ka-wing and the importance of the issues at stake, Mr CHEUNG stressed that it was incumbent upon LegCo to conduct an inquiry to find out the truth.

54. While acknowledging the importance of finding out the truth, Mrs Sophie LEUNG considered it more appropriate for BA to investigate into the matter first.

55. Noting Mr LEUNG Ka-wing's remark at the special Panel meeting that he would not reveal the source of the news even if he was held at gunpoint, Mr CHIM Pui-chung queried whether LegCo would be able to find out the truth even if an inquiry was to be conducted. In his view, LegCo should request the relevant Government bureau or department to submit a report as soon as possible. Members could further follow up the matter after considering the report. He considered this a more effective and prudent way for LegCo to follow up the matter.

56. Mr Albert HO said that LegCo should not refrain from exercising its powers under the P&P Ordinance merely on the ground that the persons summoned might refuse to give evidence. According to his recollection, persons summoned under the P&P Ordinance had been co-operative in giving evidence to LegCo. He trusted that Mr LEUNG Ka-wing would do the same. Otherwise, Mr LEUNG would be held in contempt of LegCo and criminally liable. Mr HO pointed out that unlike LegCo's inquiries, BA's investigations would not be conducted in an open and transparent manner. Mr HO stressed that it was important for and incumbent upon LegCo to inquire into whether ATV had interfered with the editorial autonomy of news reporting, given that Hong Kong's core values were at stake.

57. Mr IP Kwok-him said that Members were concerned about issues affecting public interest, including freedom of the press. He recognised the importance of finding out the truth about issues of public concern. Given that BA was investigating into the matter, he shared the view that it was more appropriate to await the report of BA. He did not support the proposal of invoking the powers under the P&P Ordinance at the present stage.

58. Mr WONG Ting-kwong said that at the special Panel meeting, he had asked Mr LEUNG Ka-wing who had the final authority to decide whether to broadcast a news report. Mr LEUNG then replied that the final authority rested with him and he took full responsibility for the misreport on Mr JIANG Zemen's death. While Mr LEUNG might have subsequently given contradictory statements on other public occasions, Mr WONG considered that what Mr LEUNG had said at the special Panel meeting should be taken as the official version. In Mr WONG's view, Mr LEUNG, as head of ATV's News Department, had complete control over editorial autonomy, and should LegCo inquire into the matter, LegCo would be interfering with editorial autonomy.

59. Mr CHEUNG Man-kwong said that it was important to note the subtle changes between what Mr LEUNG Ka-wing had said at the Panel meeting and on the radio programme. At the Panel meeting, Mr LEUNG had said that he would not disclose the source of the news even if he was held at gunpoint. However, Mr LEUNG indicated on radio a few days later that someone had put pressure on him to broadcast the news, and that person might not be the source of the news. According to Mr LEUNG, he received a telephone call from someone who had pushed him to broadcast the news immediately. In Mr CHEUNG's view, even if Mr LEUNG would not disclose the source of the news, he should at least reveal the person who had pressurized him to broadcast the news immediately, which would help throw light on the truth of the matter. He reiterated his support for LegCo to conduct an inquiry into the matter.

60. Mr Ronny TONG said that editorial autonomy, as the cornerstone of freedom of the press, was of fundamental importance in Hong Kong. He did not subscribe to the view that Members should merely take into account Mr LEUNG Ka-wing's claim at the special Panel meeting that there was no interference from ATV's management and then considered the matter settled. Given the contradictory statements given by Mr LEUNG on different occasions, Mr TONG expressed doubt on the credibility of Mr LEUNG and what he had said at the Panel meeting. In order to find out whether ATV's management had infringed on editorial independence, it was necessary to take evidence from other ATV staff who had participated in the discussion and decision of broadcasting the misreport on Mr JIANG Zemen's death. Given the importance of editorial autonomy, he considered it necessary for LegCo to conduct a comprehensive inquiry into the matter.

61. Ms Emily LAU said that given the various questions to be clarified, the matter had yet to be resolved. She did not agree to the view that LegCo should not inquire into the matter on the ground that BA had already initiated its investigations. She stressed that LegCo had the

responsibility to conduct an inquiry and it was also within its purview to do so. While Mr James SHING Pan-yu had indicated at the special Panel meeting that he himself, Mr WANG Zheng and Mr KWONG Hoi-ying were not the source of the news, Mr LEUNG Ka-wing had said on radio that he and Mr James SHING Pan-yu had different understanding on the source. Ms LAU also did not subscribe to the view that Mr LEUNG had the authority to decide on the broadcast of news reports. In her view, Mr LEUNG and his deputy would not have left ATV had he had such authority. She stressed that apart from the misreporting on Mr JIANG Zemen's death, LegCo should also inquire into the alleged inclusion of advertising materials in ATV's news programmes which had adverse impact on public interest.

62. Ms Starry LEE considered it inappropriate for LegCo to invoke the powers under the P&P Ordinance at this stage as the matter had been discussed by the relevant Panel and was being investigated by BA. In her view, Members should further discuss the matter after considering BA's report.

63. Given the diverse views expressed by Members, the Chairman put to vote Ms Emily LAU's proposal concerning the appointment of a select committee to inquire into issues relating to ATV's misreporting on the death of Mr JIANG Zemin and its improper broadcast of "paid news".

The following Members voted in favour of the proposal:

Mr Albert HO, Mr LEE Cheuk-yan, Dr David LI, Mr Fred LI, Dr Margaret NG, Mr CHEUNG Man-kwong, Mr LEUNG Yiu-chung, Ms Emily LAU, Ms Audrey EU, Mr LEE Wing-tat, Dr Joseph LEE, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Mr CHEUNG Kwok-che, Mr WONG Sing-chi, Mr Alan LEONG and Miss Tanya CHAN.

(18 Members)

The following Members voted against the proposal:

Ir Dr Raymond HO, Mr CHAN Kam-lam, Mrs Sophie LEUNG, Mr WONG Yung-kan, Mr LAU Kong-wah, Mr LAU Wong-fat, Mr Timothy FOK, Mr TAM Yiu-chung, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Vincent FANG, Mr WONG Kwok-hing, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr CHEUNG Hok-ming, Mr WONG Ting-kwong, Mr CHIM Pui-chung, Prof Patrick LAU, Ms Starry LEE, Mr CHAN Hak-kan, Mr Paul CHAN, Mr CHAN Kin-por, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mr IP Wai-ming, Mr IP Kwok-him, Mrs Regina IP, Dr PAN Pey-chyou, Mr Paul TSE and Dr Samson TAM.

(30 Members)

The following Member abstained:

Dr LAM Tai-fai
(1 Member)

64. The Chairman declared that 18 Members voted for and 30 Members voted against the proposal and one Member abstained. Ms Emily LAU's proposal was not supported.

The voting bell

65. Ms Audrey EU said that some Members' assistants had reflected that the sound of the voting bell was too loud and would interrupt their work. She enquired whether switches could be installed in Members' offices for adjusting the volume of the voting bell.

66. At the invitation of the Chairman, Secretary General explained that during a testing conducted earlier, it was found that the voting bell could not be heard in some Members' offices. The volume of the voting bell had therefore been adjusted to ensure that all Members could hear the voting bell at their offices. She undertook to follow up the matter raised by Ms Audrey EU.

XII. Election of the Chairman and Deputy Chairman of the House Committee for the 2011-2012 session

Election of Chairman

67. The Chairman called for nominations for the chairmanship of the House Committee for the 2011-2012 session. Mr Jeffrey LAM nominated Ms Miriam LAU and the nomination was seconded by Mr CHIM Pui-chung. Ms Miriam LAU accepted the nomination.

68. The Deputy Chairman, Mr Fred LI, took over from Ms Miriam LAU to preside over the election. As there was no other nomination, Mr Fred LI declared Ms Miriam LAU elected as the Chairman of the House Committee for the 2011-2012 session.

Election of Deputy Chairman

69. The Chairman called for nominations for the deputy chairmanship of the House Committee for the 2011-2012 session. Mr CHIM Pui-chung nominated Mr Fred LI and the nomination was seconded by Dr David LI. Mr Fred LI accepted the nomination.

70. As there was no other nomination, the Chairman declared Mr Fred LI elected as the Deputy Chairman of the House Committee for the 2011-2012 session.

XIII. Any other business

Up-to-date position on the re-signification of membership of Panels

71. The Chairman reminded Members that the deadline for signification of new membership of Panels was 12:00 noon, Saturday, 8 October 2011.

72. There being no other business, the meeting ended at 3:30 pm.

Council Business Division 2
Legislative Council Secretariat
13 October 2011