

立法會
Legislative Council

LC Paper No. CB(1)302/11-12
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by the Administration)

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Panel on Information Technology and Broadcasting

Minutes of special meeting
held on Monday, 19 September 2011, at 10:00 am
in the Chamber of the Legislative Council Building

- Members present** : Hon WONG Yuk-man (Chairman)
Dr Hon Samson TAM Wai-ho, JP (Deputy Chairman)
Hon CHAN Kam-lam, SBS, JP
Hon LAU Kong-wah, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon LEE Wing-tat
Hon Andrew LEUNG Kwan-yuen, GBS, JP
Hon WONG Ting-kwong, BBS, JP
Hon Ronny TONG Ka-wah, SC
Hon Cyd HO Sau-lan
Hon IP Kwok-him, GBS, JP
- Members attending** : Hon CHEUNG Man-kwong
Hon Audrey EU Yuet-mee, SC, JP
Hon WONG Sing-chi
Hon Alan LEONG Kah-kit, SC
- Members absent** : Hon Emily LAU Wai-hing, JP
Hon Mrs Regina IP LAU Suk-ye, GBS, JP

**Public officers
attending**

: Agenda item I

Miss Elizabeth TSE, 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

**Attendance by
invitation**

: Agenda Item I

Broadcasting Authority

Mr Vincent LIU, JP
Principal Executive Officer

Mr Paul CHENG
Secretary

Asia Television Limited

Mr James SHING
Executive Director

Mr Stephen LUAN
Director and Senior Vice President, Mainland
Operation

Mr Anthony POON
Solicitor

Ms Rossana CHU
Solicitor

Individual

Mr LEUNG Ka-wing
Former Senior Vice President (News & Public
Affairs)
Asia Television Limited

Ms TAM Wai-yi
Vice President (News & Public Affairs)
Asia Television Limited

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

Staff in attendance : Ms Anita SIT
Assistant Secretary General 1 (Acting)

Mr Bonny LOO
Assistant Legal Adviser 3

Mr Joey LO
Senior Council Secretary (1)3

Ms May LEUNG
Legislative Assistant (1)3

Action

I. Issues relating to editorial independence of the News Department of Asia Television Limited

(LC Paper No. CB(1)3010/10-11(01) -- Administration's paper on complaints relating to Asia Television Limited

LC Paper No. FS25/10-11 -- Fact sheet on "Summary of local press reports on issues relating to editorial independence of the News Department of Asia Television Limited (Based on local press reporting from 6 July 2011 to 16
(*Chinese version only*)

September 2011)" prepared by the Research Division of the Legislative Council Secretariat

LC Paper No. CB(1)3010/10-11(02) -- Statement issued by a group of journalists and editorial staff of the News Department of Asia Television Limited on 8 September 2011
(*Chinese version only*)

LC Paper No. CB(1)3015/10-11(01) -- Submission from a member of the Board of Directors of the Asia Television Limited dated 15 September 2011
(*Chinese version only, tabled at the meeting and subsequently issued via e-mail on 19 September 2011*)

The Chairman welcomed representatives of the Administration, representatives of Asia Television Limited (ATV), Mr LEUNG Ka-wing and Ms TAM Wai-yi to the meeting. He reminded ATV, Mr LEUNG and Ms TAM that when addressing the Panel at the meeting, they were not covered by the privileges or immunities provided under the Legislative Council (Powers and Privileges) Ordinance (Cap. 382).

Presentation by the Administration

2. At the invitation of the Chairman, Permanent Secretary for Commerce and Economic Development (Communications and Technology) (PSCED(CT)) briefed members on the progress of the Broadcasting Authority (BA)'s investigation into the complaints concerning the news and finance programmes broadcast by ATV and its control and management. She advised that BA was in the process of investigating into the complaints, and would report the outcome to the Panel as soon as practicable. Commissioner for Television and Entertainment Licensing (C for TEL) then briefed members on the relevant regulatory requirements in the Broadcasting Ordinance (Cap. 562) (the Ordinance), codes of practice issued by the BA and licence conditions, details of which were set out in the Administration's paper (LC Paper No. CB(1)3010/10-11(01)).

Presentation by ATV, Mr LEUNG Ka-wing and Ms TAM Wai-yi

3. At the invitation of the Chairman, Executive Director, ATV apologized for ATV's misreporting of the death of the former Chinese President Mr JIANG Zemin on 6 July 2011. He said that as Mr WONG

Ching was neither a shareholder, director nor principal officer of ATV, he did not have any capacity or rights to exercise control of ATV or participate in its day-to-day management. Executive Director, ATV stressed that the senior management of ATV had never exerted any influence on the editorial independence of ATV's News Department. The programme "Wealth Blog" was a finance information programme rather than a news programme of ATV.

4. At the invitation of the Chairman, Mr LEUNG Ka-wing (former Senior Vice President (News & Public Affairs) of ATV) said that he was fully responsible for the misreporting incident and had resigned his post for this reason. He also said that the senior management of ATV had never interfered with the editorial independence of ATV's News Department. However, he was gravely dissatisfied with the inclusion of excerpts of the programme "Corporate Excellence", which contained advertising elements, in the programme "Wealth Blog", and the deployment of the reporters of the News Department to solicit advertising business.

5. Ms TAM Wai-yi, Vice President (News & Public Affairs), ATV echoed Mr LEUNG Ka-wing's views on the editorial independence of ATV's News Department, and reiterated her dissatisfaction with the inclusion of advertising elements in the programme "Wealth Blog". She stressed that the News Department upheld the clear principle that all programmes produced by the Department must not contain any advertising elements.

Discussion

Misreporting of death news and editorial independence of ATV's News Department

6. Mr LEE Wing-tat enquired whether someone outside the senior management of ATV had exerted influence on the News Department which caused the erroneous report to be broadcast. In response, Mr LEUNG Ka-wing said that in the few days prior to 6 July 2011, rumours about the death of the former national leader were rife and flying all around. Local media organizations were busy preparing for the reporting of the death news should it be proven correct. At around 6.15 pm on 6 July 2011 during the commercial break of the evening news programme, a subordinate rushed into his office and conveyed the message from a source that the former national leader had died, and that the news should be announced immediately. He tried to withhold the news until he was able to confirm it with alternative sources. However, they were unable to confirm the news during the ensuing 10 minutes. Finally, he mistakenly believed what the source had told him and decided to broadcast the news. In response to Mr WONG Ting-kwong's enquiry, Mr LEUNG said that the final decision to air the death news was

made by himself. He stressed that in the absence of protection by the privileges and immunities provided under the Legislative Council (Powers and Privileges) Ordinance and in accordance with the journalistic principles, he would not disclose the source of the erroneous report.

7. Mr Ronny TONG expressed grave concern about Mr LEUNG Ka-wing's earlier remark that he had failed to stop the news report from being aired, and the apparent discrepancy of the remark compared to what Mr LEUNG had said at the meeting. Mr LEUNG advised that when he was informed of the news at around 6.15 pm on 6 July 2011, he did not believe it and had tried hard to ascertain the authenticity of the news with his news team. Failing that, however, he finally made a misjudgment of believing the news and allowed the news to be aired. In this regard, Mr Alan LEONG enquired if Mr LEUNG would withdraw his earlier remark. Mr LEUNG advised that the remark had already been made and therefore could not be withdrawn.

8. In reply to Mr WONG Sing-chi's and Mr WONG Ting-kwong's enquiry, Mr LEUNG advised that his decision to air the news was not made under any pressure, hidden reasons, nor interference from the suspected person. He said that he could not provide any evidence to link the suspected person with the operation of the News Department of ATV.

9. Mr CHEUNG Man-kwong was of the view that Mr LEUNG Ka-wing had no intention to stop the death news from being aired. In this connection, he enquired about the source of information and the person who made the final decision on the reporting of the death news, and whether the management of ATV had put pressure on the News Department to include advertising materials in the programme "Wealth Blog". He also asked what action BA would take if the management was proven to have interfered with the editorial independence of the News Department.

10. Executive Director, ATV advised that the senior management of ATV had always respected the editorial independence of the News Department, and had never interfered with nor put pressure on its operation. He stressed that neither himself, Mr WONG Ching, nor Senior Vice-President KWONG Hoi-ying was the source of the death news.

11. C for TEL explained that if Mr Wong Ching was found to have exerted any pressure on the News Department of ATV in an inappropriate way, ATV would be deemed to have contravened the relevant statutory provisions or licence conditions. BA would consider imposing a range of sanctions on ATV, including an advice, a warning, a financial penalty, suspension of licence or even a recommendation to the Chief Executive in

Council for a revocation of licence.

12. PSCED(CT) added that the Administration had all along been concerned about whether any parties outside the management of ATV had participated in the management of ATV. BA was seriously investigating into the issue. In response to Mr Ronny TONG's enquiry, she advised that the Generic Code of Practice on Television Programme Standards (TV Programme Code) was binding on the television programme service licensee itself. The licensee would be subject to sanction if any breach of the Code was found.

13. Mr Ronny TONG referred to section 7 (f), Chapter 9 of the TV Programme Code and enquired about the definition of "bona fide news programme". He was of the view that the term "bona fide news programme" was ambiguous and should be amended to "all news programmes", and that by virtue of section 2 of Chapter 11 of the Code on indirect advertising, the placing of advertising material in a financial information programme would constitute a breach of the Code. C for TEL noted the member's views and advised that a bona fide news programme referred to a news programme which dealt with factual reporting.

Control and management of ATV by Mr WONG Ching

14. Noting that Mr WONG Ching was neither a shareholder, director nor principal officer of ATV, Mr LEE Wing-tat expressed grave concern about the blatant involvement of Mr WONG Ching in the management of ATV. He opined that as a domestic free television programme service licensee, ATV should be subject to all regulatory requirements applicable to it under the Broadcasting Ordinance (Cap. 562), its licence and the codes of practice issued by the BA. In this connection, he expressed objection to the renewal of ATV's domestic free television programme service licence.

15. In response, C for TEL advised that Mr WONG Ching did not have any capacity or rights to exercise control of ATV or participate in its day-to-day management. In view of public concerns and a relevant complaint, BA was conducting an investigation into the role played by Mr WONG Ching in the control and management of ATV, including his role in ATV's misreporting of death news, to ascertain whether ATV was in breach of any relevant statutory provisions or licence conditions.

16. Ms Cyd HO enquired about the role played by Mr WONG Ching in ATV. Director and Senior Vice President, Mainland Operation, ATV advised that Mr WONG Ching served as the personal advisor of the Executive Director, ATV and was invited by the latter to attend the regular

weekly meetings of ATV. In September 2011, Mr WONG Ching only attended such meetings at the invitation of the Executive Director, ATV for not more than three times.

17. Mr LAU Kong-wah referred to the submission from a Board member of ATV regarding the management of ATV and enquired why no meeting of the Board had been convened since Mr WONG Ching joined ATV. Executive Director, ATV explained that the Board members of ATV had been preoccupied with a number of litigations which had prevented the Board of Directors from convening meetings. Nevertheless, he stressed that the daily operation of ATV had remained normal.

Inclusion of advertising materials in ATV's programme "Wealth Blog"

18. Mr LAU Kong-wah enquired about the allegation against the practice of touting for "paid news" by a reporter of the News and Public Affairs Department. Mr LEUNG Ka-wing responded that "Wealth Blog" was a programme produced by staff members of the News and Public Affairs Department of ATV. He expressed grave dissatisfaction about the inclusion of excerpts of the programme "Corporate Excellence", produced by the Information Division of the News and Public Affairs Department, which contained advertising elements in the programme "Wealth Blog". In reply to Mr Alan LEONG, Mr LEUNG advised that this incident happened after his resignation on 8 July 2011.

19. Executive Director, ATV advised that apart from news programmes, the News and Public Affairs Department of ATV also produced a number of informational programmes, including the "Wealth Blog" which was a financial information programme with no advertising elements and did not involve any paid business. Director and Senior Vice President, Mainland Operation, ATV added that the footage in the advertising magazine programme "Corporate Excellence" was produced in May 2011 and was not the same as the footage in the financial information programme "Wealth Blog", which dealt with a related but different subject and was produced in July 2011. ATV had conducted an investigation into the programme "Wealth Blog" in response to Mr LEUNG Ka-wing's complaint and found neither any evidence of "paid business" nor "paid news". At members' request, Executive Director, ATV agreed to provide a report on the incident.

ATV

20. C for TEL responded that the TV Programme Code stipulated that no bona fide news programmes might be sponsored, and that no advertising matter should be offered as news or included in the contents of a news programme. The Generic Code of Practice on Television Advertising Standards (TV Advertising Code) stipulated that news programmes must not

be sponsored. BA was handling the complaints about the inclusion of advertising materials in the programme "Wealth Blog" in accordance with the established procedures. BA would consider whether ATV was in breach of the relevant provisions in the TV Programme Code and TV Advertising Code, taking into consideration relevant factors, including the nature of the concerned broadcast materials, and whether the two programmes mentioned were news programmes. Whilst financial or current affairs programmes could be sponsored, they were subject to stringent requirements under the relevant Codes. BA would announce the investigation result at an appropriate time.

21. Mr CHAN Kam-lam was of the view that ATV's problem lay in its internal personal management. He hoped that ATV would seriously review the situation and make improvements. Ms Cyd HO also expressed grave concern about the internal management of ATV. She was of the view that the Panel should seek to invoke the LegCo (Powers and Privileges) Ordinance (Cap 382) to look further into the matter.

22. PSCED(CT) advised that the Administration would not normally interfere with the licencees' autonomy in managing its internal operation unless there were problems which had prevented the licencees from providing the service required under their licence conditions. In this regard, BA had been keeping a close watch on the complaints received and actively conducting investigations.

23. In response to Ms Cyd HO's enquiry, Director and Senior Vice President, Mainland Operation advised that there were two types of employment contract for the staff of ATV, namely ordinary staff contract and artiste staff contract. The employment contract of the reporter-anchor in charge of the programme "Wealth Blog" was an ordinary, non-artiste staff member contract. Executive Director, ATV added that the anchor-reporter of "Wealth Blog" and "Corporate Excellence" was also the producer of the programme. In visiting the clients of the programme concerned, the anchor-reporter was only introducing the programme, and would not take part in the sales aspect of the "Corporate Excellence" programme which were undertaken by colleagues of the sales department.

24. The Chairman and Mr LEE Wing-tat urged ATV to be aware of the practice of touting for "paid news", so as not to compromise the principle that all programmes produced by the News Department must not contain any advertising elements. They also urged BA to expedite the investigation into the complaints.

25. The Chairman advised that he would consider whether the Panel

should further pursue the issues relating to editorial independence of the News Department of Asia Television Limited, when the findings of BA's investigations on complaints against ATV were available.

II. Any other business

26. The Chairman asked members whether a special meeting should be held to discuss the item "Issues relating to the appointment of the Director of Broadcasting". Mr LEE Wing-tat, Ms Cyd HO, Mr Ronny TONG and Mr CHEUNG Man-kwong were of the view that a special meeting should be held to follow up why an Administrative Officer without the relevant experience had been selected for the post. Mr CHAN Kam-lam, Mr IP kwok-him and Mr WONG Ting-kwong were of the view that there was no urgent need to hold a special meeting to discuss the matter.

27. PSCED advised that as the post of D of B was a promotional rank, consideration would first be given to filling the post by promotion from the relevant lower rank. As no suitable candidate could be identified through the internal promotion exercise to fill the vacancy at the promotion rank, the Administration launched an open-cum-in-service recruitment in December 2010 according to established policy and procedures approved by the Public Service Commission. A total of 26 applications were received but no suitable candidate was identified. The Administration stressed that as there was an imminent need to fill the D of B post for leading RTHK to meet the challenges ahead arising from the enhancement of its operation and services in the coming few years, the appointment of an Administrative Officer was a special arrangement and was not intended to become a standing practice.

28. The Chairman concluded that in view of the concern of the RTHK staff and the public, he decided to hold a special meeting to discuss the issue.

(post-meeting note: A special meeting was held on 21 October 2011 to discuss the issue.)

29. There being no other business, the meeting ended at 12:15 pm.