

商務及經濟發展局  
通訊及科技科

香港添馬添美道二號  
政府總部西翼二十一樓



COMMUNICATIONS  
AND TECHNOLOGY BRANCH  
COMMERCE AND ECONOMIC  
DEVELOPMENT BUREAU

21/F, West Wing  
Central Government Offices  
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Tamar, Hong Kong

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(傳真號碼：2537 7053)

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香港中區  
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立法會資訊科技及廣播事務委員會  
黃毓民主席

黃主席：

### 通訊事務管理局(通訊局)的常規

在《通訊事務管理局條例草案》委員會審議草案期間，我們曾承諾知會立法會資訊科技及廣播事務委員會，通訊局常規內有關通訊局在任何一個年度內舉行會議的次數、會議程序、成員以電子方式參與會議、向在某事項上有或可能有利害關係的成員提供有關該事項的文件或資料，以及通訊局成員披露利害關係的內容。

通訊局在本年四月一日成立，並於四月二日舉行首次會議。隨函附上通訊局於當天會上通過的常規(只有英文版)，以供參閱。下文會概述當中一些要點，以供備考。

#### 會議次數

常規第2(1)段訂明，通訊局最少每月舉行會議一次。實際會議次數將由主席或副主席(如主席缺勤)按工作需要決定。

## 會議程序

根據常規第5(1)段，通訊局須於每年年初通過舉行會議的時間表。除緊急情況外，如有額外會議，有關開會通知須最少在5個工作天前向每名成員發出。

常規第3(4)段訂明，通訊局會議的議題由共識決定，如無共識，則由出席成員所投過半票數決定。

## 以電子方式參與會議

《通訊事務管理局條例》(第616章)第10(6)條訂明，經主席或副主席(如主席缺勤)事前批准並在符合通訊局常規下，通訊局成員可以電子方式參與會議。

爲保密起見，常規第14(3)段訂明，如會議上會討論機密資料，則成員不得以電子方式參與會議，除非情況非常特殊，速度比保密更重要時則當別論。即使如此，成員亦須採取不同防範措施，減低機密資料外洩的風險。

## 向在某事項上有或可能有利害關係的成員提供文件或資料

常規第6(4)段訂明，除非獲主席或副主席(如主席缺勤)同意，如通訊局任何成員披露在某事項上有利害關係，則有關該事項的文件不得送交該成員。

## 登記和披露利害關係

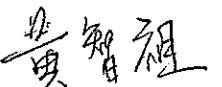
通訊局採用兩層申報制。常規第12(3)段訂明通訊局成員須定期披露的利害關係類別。此外，通訊局秘書會設立並維持一份登記這些利害關係的登記冊，公眾可在通訊局的網址查閱該登記冊<sup>1</sup>。

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<sup>1</sup> 登記冊正在整理中，稍後將會上載至通訊局網頁。

除定期申報利害關係外，根據常規第13(1)段，通訊局成員亦須於會議上披露利害關係，這也是《通訊事務管理局條例》第14(1)條的法訂要求。

商務及經濟發展局局長

(黃智祖  代行)

副本送： 事務委員會秘書（經辦人：余天寶女士）  
傳真：2978 7569

二零一二年五月三日

## **STANDING ORDERS OF THE COMMUNICATIONS AUTHORITY**

**(Made by the Communications Authority under Section 10(5) of  
the Communications Authority Ordinance (Cap. 616)**

### **1. Language**

English and Chinese can be used at meetings of the Communications Authority (the “Authority”). Simultaneous interpretation will be provided if necessary.

### **2. Meetings of the Authority**

(1) Unless otherwise determined by the Chairperson, or the Vice-Chairperson in the absence of the Chairperson, the Authority shall meet at least once every month at such time and place as the Chairperson, or the Vice-Chairperson in the absence of the Chairperson, shall appoint.

(2) The Chairperson may at any time, or shall, within seven days of receiving a requisition signed by –

- (a) the Vice-Chairperson;
- (b) the Director-General of Communications (the “Director-General”); or
- (c) any two members of the Authority,

convene a meeting of the Authority.

(3) The Vice-Chairperson, in the absence of the Chairperson, may at any time, or shall, within seven days of receiving a requisition signed by –

- (a) the Director-General; or
- (b) any two members of the Authority,

convene a meeting of the Authority.

(4) Any such requisition shall state the purpose for which the meeting is to be called.

(5) If a quorum is not present within a quarter of an hour after

the time appointed for the meeting, the Authority shall stand adjourned until the next ordinary day of meeting or another time set by the Secretary with the consent of the Chairperson, or in his absence, the Vice-Chairperson.

### **3. Quorum, Chairperson and Decision**

- (1) At any meeting of the Authority, a majority of the members for the time being in office shall form a quorum.
- (2) At all meetings of the Authority, the Chairperson, or in his absence, the Vice-Chairperson, or in the absence of both of them, such member as the members present shall appoint, shall preside.
- (3) In these Standing Orders the expression “Chairperson” unless otherwise specified means the Chairperson of the Authority, but any power or duty assigned to the Chairperson in relation to the conduct of a meeting may be exercised by the person presiding at the meeting.
- (4) Every question of the meeting of the Authority is to be determined by consensus or if there is no consensus, a majority of votes of the members present and voting on it.
- (5) In the event of an equality of votes, the member presiding has a casting vote in addition to the member’s original vote.

### **4. Appointment of Secretary**

The Director-General shall appoint an officer from the Office of the Communications Authority (“OFCA”) to be the secretary of the Authority (the “Secretary”).

### **5. Notice of Meeting**

- (1) The Authority shall approve the schedule of its meetings at the beginning of each year. Should there be a need for an additional meeting or changing the date of a scheduled meeting, notice of such a meeting shall be given by the Secretary to each member of the Authority at least 5 working days before the day of meeting, except in case of urgency where as long a notice as possible shall be given.

- (2) For the purpose of giving notice in paragraph 5(1) above, the duration of the notice excludes the day on which notice is given and the day of the meeting. For the avoidance of doubt, the expression “working days” includes Saturday which is not a public holiday.

## **6. Issue of Papers and Minutes**

- (1) The Secretary shall normally transmit the agenda of the meeting to each member of the Authority at least 48 hours before the meeting, except in case of urgency where agenda shall be transmitted as soon as possible.
- (2) Papers will wherever possible be sent to members at least 48 hours before the meeting. With the consent of the Chairperson, matters may be raised and dealt with by the Authority at a meeting without the papers having been so circulated.
- (3) Occasional omission to supply such notice of meeting, papers, or agenda to any member of the Authority shall not affect the validity of the meeting.
- (4) Unless with the consent of the Chairperson, or in his absence, the Vice-Chairperson, papers on a matter shall not be forwarded to any member of the Authority who has disclosed an interest in that matter.
- (5) Members of the Authority will receive agendas and minutes of all meetings of the committees of the Authority.
- (6) Members of the Authority will receive the papers of those committees on which they serve. Papers of any other committees will only be forwarded to members of the Authority if they have specifically asked for them.

## **7. Order of Business**

- (1) The order of business at any meeting of the Authority shall be –
  - (a) To approve as a correct record the minutes of the last

meeting;

- (b) To deal with matters arising from minutes of the previous meeting;
- (c) To consider and where appropriate endorse recommendations put forward by –
  - (i) the committees of the Authority;
  - (ii) the Director-General; and
  - (iii) individual members of the Authority; and
- (d) Any other business on the agenda.

- (2) This order of business may be varied by the member presiding the meeting.
- (3) Where a meeting is called on requisition, only the subject matter of the requisition shall be placed on the agenda.

## **8. Transaction of Business by Circulation of Papers by the Authority**

- (1) Upon seeking the agreement of the Chairperson, or in his absence, the Vice-Chairperson, a member of the Authority or the Secretary may circulate a paper or copies of the paper on a matter to all members of the Authority so that the Authority may make a resolution in writing on that matter. A resolution in writing is as valid and effectual as if it had been passed at a meeting of the Authority.
- (2) The paper or copies of the paper concerned shall include a specified date before which a member is requested to respond, a proposed resolution in writing and a section for a member of the Authority to indicate whether he supports or opposes or abstains in that resolution.
- (3) A member of the Authority may, on the paper or a copy of the paper, indicate whether he supports, opposes or abstains in the resolution. In doing so, he shall sign on the paper or the copy of the paper.
- (4) A member of the Authority shall return the signed paper or

copy of the paper to the Secretary on or before the date he is requested to respond. He shall make the return in person, or through facsimile or other means of electronic transmission. A paper or copy of the paper transmitted through facsimile or other means of electronic transmission and bearing the signature of the member is considered signed by the member.

- (5) A resolution in writing on a matter is approved if the Secretary receives a paper or copies of the paper which together bear the signatures of the majority of the members of the Authority for the time being in office (one of whom shall be the Chairperson, Vice-Chairperson or the Director-General ) supporting the resolution.
- (6) The date on which a resolution in writing is approved is the date on which the last person forming the majority of the Authority has signed the paper or copy of the paper.
- (7) A member of the Authority may during the circulation of the paper request the matter concerned to be transacted at a meeting of the Authority. He shall pass the request by way of a notice in writing to the Chairperson, through the Secretary or otherwise, on or before the specified date before which members are requested to respond to the paper in circulation.
- (8) A notice passed to the Chairperson under subparagraph 8(7) above will render any resolution approved in writing void and the Chairperson must convene a meeting.
- (9) If a member of the Authority has a pecuniary interest whether direct or indirect, or a personal interest greater than that which the member has as a member of the general public, in the matter being dealt with by way of the circulation of papers, he shall disclose the nature of the interest by attaching to the papers being circulated a note recording the disclosure. In this case, unless with the consent of the Chairperson, his signature is not to be counted for the purpose of approving a resolution in writing.
- (10) If a member of the Authority making a disclosure according to subparagraph 8(9) above is the Chairperson, his power to

determine whether a signature is to be counted shall be exercised by the Vice-Chairperson. If both the Chairperson and the Vice-Chairperson make a disclosure under subparagraph 8(9), the matter cannot be transacted by way of circulation of papers.

- (11) The validity of an approval of a resolution in writing is not affected by the failure by a member to comply with subparagraph 8(9).

## **9. Participation in Meetings through Electronic Means**

With the prior approval of the Chairperson or Vice-Chairperson (if the Chairperson is absent) and the compliance with the relevant conditions in these Standing Orders, a member of the Authority is taken to be present at a meeting of the Authority if he participates in the meeting by telephone, video conferencing or other electronic means, and the member is able to communicate with the other members present and they are able to communicate with the member.

## **10. Broadcast Complaints Committee**

- (1) A Broadcast Complaints Committee shall be constituted pursuant to Section 10 of the Broadcasting (Miscellaneous Provisions) Ordinance (Cap. 391) (the “B(MP)O”).
- (2) The Broadcast Complaints Committee shall, pursuant to Section 11 of the B(MP)O, consider complaints in relation to a contravention of the B(MP)O, the Broadcasting Ordinance (Cap. 562) (the “BO”), Part IIIA of the Telecommunications Ordinance (Cap. 106) (the “TO”), the terms or conditions of a broadcast licence, or a Code of Practice issued by the Authority for compliance by holders of a broadcast licence.
- (3) The Broadcast Complaints Committee shall determine its own procedures pursuant to Section 10(7) of the B(MP)O .
- (4) The Director-General shall appoint an officer from OFCA to be the secretary of the Broadcast Complaints Committee.

## **11. Committees (Other than the Broadcast Complaints Committee)**

- (1) The Authority may appoint committees pursuant to Section 17 of the Communications Authority Ordinance (Cap. 616) (the “CAO”), and lay down the terms of reference of each of the committee appointed.
- (2) A committee shall be constituted of a chairperson, who shall be a member of the Authority, and such other persons as the Authority shall appoint.
- (3) The Director-General shall appoint an officer from OFCA to be the secretary of each committee appointed by the Authority.
- (4) Any particular matter may be referred to such a committee by the Chairperson or the Director-General if the matter falls within the committee’s terms of reference.
- (5) At the meeting of a committee, the chairperson of that committee or, in his absence, such member, who must be a member of the Authority, as the members present shall select, shall preside.
- (6) The chairperson of a committee may invite the attendance of any other member of the Authority or any other person to attend any meeting of the committee. In such circumstances, the invited member or other person shall not be considered a member of the committee and shall not vote.
- (7) In any matter properly and equally affecting two or more committees, the Authority or where the matter is urgent, the Chairperson, or in his absence, the Vice-Chairperson, may decide that such matter shall be dealt with by a joint meeting of the committees concerned. In such circumstances, the chairperson of the joint meeting shall be appointed by the Chairperson, or in his absence, the Vice-Chairperson, and shall be one of the chairpersons of the committees concerned, and the members of the committees concerned shall be deemed to have delegated to the joint committee the powers and functions of the committees concerned.
- (8) Committees may deal with matters submitted to them either by discussion at a meeting or by circulation of papers.

- (9) Any member of a committee may request a meeting be convened to discuss a matter raised in a circulating paper and such meeting shall be arranged by the secretary of the committee.
- (10) Any business at a committee meeting may be determined by the majority of votes of those members present and voting.
- (11) For meetings of all committees of the Authority, a majority of the members (including co-opted members, if any) for the time being in office form a quorum. A quorum will be deemed to exist, following the opening of a meeting by the chairperson of a committee, or, in his absence, such presiding member, notwithstanding the minimum number of members present at the meeting subsequently may fall below the quorum as a result of any members departing during the meeting.

## **12. Register of Interests under Section 13 of the CAO**

- (1) Pursuant to Section 13(1) of the CAO, a member of the Authority must disclose to the Authority any interest falling within the classes described in subparagraph 12(3) below.
- (2) Disclosure of interests shall be made to the Authority on the following occasions –
  - (a) on the member's first appointment;
  - (b) at the beginning of each calendar year after the appointment;
  - (c) when the member becomes aware of the existence of an interest not previously disclosed; and
  - (d) after the occurrence of any change to an interest previously disclosed.
- (3) The classes of interests which members shall disclose pursuant to Section 13 of the CAO are as follows –
  - (a) remunerated employments, offices, trades, professions or vocations;
  - (b) proprietorships, partnerships or directorships of companies;

- (c) shareholdings of 1% or more of the company's issued share capital in a publicly listed or private company; and
  - (d) other declarable interests, taking into consideration the nature of work of the Authority and/or the individual committee.
- (4) Any interest falling within the classes described in subparagraphs 12(3)(b) to (d) above that is held by the spouse of a member on the member's behalf shall be disclosed to the Authority.
- (5) The Secretary shall establish and maintain a register relating to any interest disclosed under subparagraphs 12(1) to (4) above. The register shall be kept at the principal office of OFCA, and made available on the website of the Authority for public inspection.
- (6) The register shall record the name of the person making the disclosure and the particulars thereof.
- (7) For the avoidance of doubt and for the purpose of this paragraph, the Secretary may request any further information from members.

### **13. Declaration of Interests at Meetings**

- (1) If a member of the Authority has
- (a) a pecuniary interest, whether direct or indirect; or
  - (b) a personal interest greater than that which the member has as a member of the general public,
- in a matter under discussion at the meeting of the Authority, the member shall disclose the nature of the interest at the meeting.
- (2) Subject to subparagraphs 13(5) and (6) below, the member who has an interest to disclose under subparagraph 13(1) shall not speak or vote on the matter before disclosing that interest.

- (3) Any disclosure made under subparagraph 13(1) above shall be recorded in the minutes of that meeting.
- (4) If the disclosure under subparagraph 13(1) is made by the Chairperson, he must vacate the chair during the discussion on the matter. The Vice-Chairperson, or in his absence, such member as the members present shall appoint, shall preside during the discussion on that matter.
- (5) If the majority of the other members present at the meeting request, the member who has made a disclosure under subparagraph 13(1) shall withdraw from the meeting during the discussion on that matter.
- (6) Unless otherwise determined by the majority of the other members present, any member who has made a disclosure under subparagraph 13(1) shall not vote on any resolution concerning the matter under the discussion or be counted for the purpose of establishing the existence of a quorum.
- (7) When a known pecuniary interest, direct or indirect, or personal interest exists, the Secretary may withhold circulation of relevant papers to the member concerned. Where a member has received a paper for discussion which he knows presents a conflict of interest, he should immediately inform the Secretary and return the paper.
- (8) To facilitate the disclosure of interest under subparagraph 13(1) above, for matters to be discussed by the Authority that involve any specific company holding or applying for a a telecommunications carrier licence, a sound broadcasting licence, a domestic free television programme service licence, or a domestic pay television programme service licence, the Secretary will provide, in the paper submitted to Members for consideration, relevant information (such as shareholding structure and the names of directors) about the company involved. Such information will be drawn from a database kept by OFCA, which will be updated once a year or when a key change is known in the public domain. While the Secretary will make his best endeavours in keeping up-to-date and accurate information, the responsibility to make full disclosure of interests held

remains with the members, and mistakes or omissions that may be found in the information provided by the Secretary shall not be attributed as a reason for members' failure to make disclosure. For the avoidance of doubt, the provision by the Secretary of relevant information about individual companies does not apply if the matter to be discussed by the Authority concerns specific types of licensees across the board.

- (9) The validity of any proceeding of the Authority is not affected by the failure of a member to comply with subparagraph 13(1).

## **14. Safeguarding Confidentiality**

- (1) A member of the Authority shall observe any confidentiality obligations imposed on them by law, including the confidentiality requirements in Section 23 of the CAO, section 27 of the BO and section 23 of the B(MP)O.
- (2) A member of the Authority shall return all papers of the Authority issued to him at the end of the meeting at which the papers have been discussed. In exceptional cases where the papers are not so returned, the Secretary will remind members to return the papers at regular intervals.
- (3) A member of the Authority should not participate in a meeting through electronic means under paragraph 9 if confidential information would be discussed at the meeting, unless in the most exceptional circumstances where the need for speed outweighs that for confidentiality. Even then, the member should, *inter alia*, –
  - (a) ensure the room where the member participates in a meeting through electronic means is private, allow no unauthorised access and without the presence of any other person; and
  - (b) keep the speech in the most guarded and cryptic manner, and exercise care to avoid that the conversation being overheard by any other person.