

**立法會**  
**Legislative Council**

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seen by the Administration)

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**Establishment Subcommittee of the Finance Committee**

**Minutes of the 12<sup>th</sup> meeting**  
**held in Conference Room 1 of Legislative Council Complex**  
**on Wednesday, 27 April 2016, at 8:30 am**

**Members present:**

Hon Mrs Regina IP LAU Suk-ye, GBS, JP (Chairman)  
Hon WONG Kwok-kin, SBS (Deputy Chairman)  
Hon Albert HO Chun-yan  
Hon James TO Kun-sun  
Hon CHAN Kam-lam, SBS, JP  
Hon TAM Yiu-chung, GBS, JP  
Hon WONG Kwok-hing, BBS, MH  
Hon WONG Ting-kwong, SBS, JP  
Hon Cyd HO Sau-lan, JP  
Hon Starry LEE Wai-king, JP  
Hon CHAN Hak-kan, JP  
Hon IP Kwok-him, GBS, JP  
Hon Alan LEONG Kah-kit, SC  
Hon LEUNG Kwok-hung  
Hon Albert CHAN Wai-yip  
Hon NG Leung-sing, SBS, JP  
Hon Steven HO Chun-yin, BBS  
Hon WU Chi-wai, MH  
Hon YIU Si-wing, BBS  
Hon MA Fung-kwok, SBS, JP  
Hon Charles Peter MOK, JP  
Hon CHAN Chi-chuen  
Hon CHAN Han-pan, JP

Dr Hon Kenneth CHAN Ka-lok  
Hon LEUNG Che-cheung, BBS, MH, JP  
Hon Kenneth LEUNG  
Hon Alice MAK Mei-kuen, BBS, JP  
Hon KWOK Wai-keung  
Hon Christopher CHEUNG Wah-fung, SBS, JP  
Dr Hon Fernando CHEUNG Chiu-hung  
Hon SIN Chung-kai, SBS, JP  
Hon IP Kin-yuen  
Hon Martin LIAO Cheung-kwong, SBS, JP  
Hon POON Siu-ping, BBS, MH  
Hon TANG Ka-piu, JP  
Dr Hon CHIANG Lai-wan, JP  
Ir Dr Hon LO Wai-kwok, SBS, MH, JP  
Hon CHUNG Kwok-pan  
Hon Christopher CHUNG Shu-kun, BBS, MH, JP  
Hon Alvin YEUNG Ngok-kiu

**Members absent:**

Hon LEUNG Yiu-chung  
Hon Emily LAU Wai-hing, JP  
Prof Hon Joseph LEE Kok-long, SBS, JP, PhD, RN  
Dr Hon Helena WONG Pik-wan  
Dr Hon Elizabeth QUAT, JP

**Public Officers attending:**

Ms Esther LEUNG, JP	Deputy Secretary for Financial Services and the Treasury (Treasury)1
Mr Eddie MAK Tak-wai, JP	Deputy Secretary for the Civil Service (1)
Mr Gordon LEUNG, JP	Acting Permanent Secretary for Constitutional and Mainland Affairs
Mr Daniel CHENG, JP	Deputy Secretary for Constitutional and Mainland Affairs (3)
Ms Noel TSANG	Principal Assistant Secretary for Constitutional and Mainland Affairs (8)
Mr Joe WONG, JP	Acting Permanent Secretary for Commerce and Economic Development (Communications and Creative Industries)
Mr Ivanhoe CHANG	Principal Assistant Secretary for Commerce and Economic Development (Communications and Creative Industries) B

**Clerk in attendance:**

Ms Connie SZETO

Chief Council Secretary (1)4

**Staff in attendance:**

Mr Jason KONG

Council Secretary (1)4

Ms Alice CHEUNG

Senior Legislative Assistant (1)1

Ms Haley CHEUNG

Legislative Assistant (1)9

Miss Yannes HO

Legislative Assistant (1)6

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Action

The Chairman drew members' attention to the information paper ECI(2016-17)1 which set out the latest changes in the directorate establishment approved since 2002 and the changes to the directorate establishment in relation to the six items for discussion at today's meeting. She then reminded members that in accordance with Rule 83A of the Rules of Procedure ("RoP"), they should disclose the nature of any direct or indirect pecuniary interest relating to the funding proposals under discussion at the meeting before they spoke on the items. She also drew members' attention to RoP 84 on voting in case of direct pecuniary interest.

**EC(2015-16)19      Proposed making permanent of one Administrative Officer Staff Grade C (D2) supernumerary post in the Constitutional and Mainland Affairs Bureau with effect from 1 July 2016 or with immediate effect upon approval of the Finance Committee, whichever is later, to continue to enhance the functions and improve the network of Mainland Offices, as well as to promote regional co-operation between Hong Kong and relevant provinces/municipalities in the Mainland**

2.      The Chairman remarked that the proposal was to make permanent one Administrative Officer Staff Grade C supernumerary post in the Constitutional and Mainland Affairs Bureau to continue to enhance the functions and improve the network of Mainland Offices, as well as to promote regional cooperation between Hong Kong and Mainland provinces/municipalities.

3.      The Chairman said that the Panel on Commerce and Industry discussed the proposal on 15 December 2015. The Panel supported in

principle converting the proposed post into a permanent post to continue to provide support for Hong Kong residents and enterprises in the Mainland, strengthen cooperation between Hong Kong and the Mainland, and deepen regional cooperation. Panel members urged the Administration to improve the network of Mainland Offices and formulate relevant policies and measures to enable Hong Kong enterprises to tap the business opportunities arising from the three major regional development initiatives, namely the Belt and Road Initiative, the Beijing-Tianjin-Hebei Coordinated Development Programme and the Yangtze River Economic Belt. Some members expressed concern about the declining number of Mainland visitors to Hong Kong and urged the Administration to look into the root causes of the conflicts between the peoples of Hong Kong and the Mainland and draw up practical solutions, so as to prevent further deterioration of their relationship and Mainlanders' interest to visit Hong Kong. Furthermore, some members opined that the Administration should assign designated officials in the Mainland Offices to take charge of cultural promotion work to enhance cultural cooperation and exchange between Hong Kong and the Mainland.

#### Provision of support for Hong Kong residents in the Mainland

4. Mr CHAN Chi-chuen noted that an Immigration Division would be set up under the Shanghai Economic and Trade Office ("ETO") to provide assistance for Hong Kong residents in distress in the Mainland. He asked about the offices where Hong Kong residents in distress in Shanghai might seek assistance from at present, and how the new Immigration Division could enhance the functions and service efficiency of the Shanghai ETO.

5. Deputy Secretary for Constitutional and Mainland Affairs (3) ("DS(CMA)3") advised that currently, only the Beijing Office, Guangdong ETO and Chengdu ETO had set up Immigration Divisions. For Hong Kong residents in distress in provinces and cities within the areas covered by the Shanghai ETO, assistance was provided by the Immigration Division of the Beijing Office. To address the needs of Hong Kong people living and working in areas covered by the Shanghai ETO (including Shanghai), the Government planned to set up an Immigration Division under the Shanghai ETO to provide appropriate and timely assistance for Hong Kong people in distress there.

6. Mr CHAN Han-pan sought elaboration on the assistance the Mainland Offices could provide for Hong Kong people in distress. DS(CMA)3 explained that the Immigration Divisions of the various Mainland Offices could assist Hong Kong people who were involved in accidents in the Mainland. Besides, if the Hong Kong people in distress intended to submit requests to the Mainland executive authorities, the Immigration Divisions would refer their requests to the appropriate authorities for further actions.

7. Mr Albert CHAN objected to the proposal. He criticized the Mainland Offices for failing to proactively provide assistance for Hong Kong people in distress in the Mainland, thereby leaving them or their relatives with no choice but to seek help from the Immigration Department in Hong Kong. Notwithstanding that the Security Bureau had already established a notification mechanism with the Mainland law enforcement agencies, the cases handled through the mechanism were often seriously delayed.

8. Acting Permanent Secretary for Constitutional and Mainland Affairs ("Acting PSCMA") remarked that the officials in the Mainland Offices would act in compliance with the laws in the Mainland under the principle of "One Country, Two Systems" and make every endeavour to serve Hong Kong people in need. According to the established mechanism, cases of Hong Kong people detained by Mainland law enforcement agencies would be followed up by the Security Bureau and the Immigration Department. Nevertheless, Mainland Offices would endeavour to offer appropriate and immediate assistance to address the requests of people in distress or their relatives.

9. Mr Albert CHAN requested the Administration to provide supplementary information on the number of Hong Kong residents who were found missing in the Mainland or were detained by Mainland law enforcement agencies over the past three years, and the follow-up actions taken by the Administration with the Mainland law enforcement agencies. Mr CHAN also expressed grave concern about the possible acceptance of deferred benefits in the Mainland by former directorate officers who had been responsible for Mainland affairs while serving in the Constitutional and Mainland Affairs Bureau or who had been deployed to the Mainland Offices. He requested the Administration to provide information on the number of former directorate officers who had been responsible for the aforementioned duties currently working or pursuing careers in the Mainland.

*[Post-meeting note: The supplementary information submitted by the Administration was circulated to members on 17 May 2016, vide LC Paper No. ESC92/15-16(01).]*

10. Mr Albert HO pointed out that currently, the relatives of Hong Kong people detained in the Mainland or the officials of the Government of the Hong Kong Special Administrative Region were not allowed to visit the detainees who had not been prosecuted officially. He enquired whether the Administration had strived with the Mainland for the relevant right to visit.

11. DS(CMA)3 explained that the Government had enhanced the legal support in various aspects for Hong Kong people in distress in the Mainland. At present, a list of local lawyers and their contact details were maintained at

various Mainland Offices for reference by Hong Kong people in need. Moreover, the Guangdong ETO offered free legal advisory service to Hong Kong people who encountered legal issues in the Mainland. For Hong Kong people detained in the Mainland, should their relatives wish to visit them or apply for medical parole on their behalf, the Mainland Offices would refer their requests to the Mainland authorities concerned.

12. Mr Christopher CHEUNG expressed support for the proposal. In response to a question raised by Mr CHEUNG, DS(CMA)3 remarked that matters relating to regional cooperation between Hong Kong and Fujian Province were under the purview of another directorate officer of the Constitutional and Mainland Affairs Bureau. The various Mainland Offices would relay to the local authorities the requests of Hong Kong people and enterprises in the Mainland.

#### Cultural exchange and cooperation between Hong Kong and the Mainland

13. Mr CHAN Chi-chuen enquired about the major duties of the dedicated cultural staff proposed to be deployed to the Beijing Office. DS(CMA)3 advised that the said staff would proactively promote cultural exchange and cooperation between Hong Kong and the Mainland. The duties would include enhancing communication with Mainland authorities and arts groups, facilitating participation of Hong Kong arts groups in cultural exchange activities in the Mainland, etc.

14. Mr MA Fung-kwok declared that he was the Chairman of the Hong Kong Film Development Council. Mr Christopher CHUNG declared that he was a Council Member of the Hong Kong Chinese Orchestra. Mr CHUNG asked whether the Administration would consider seconding an official from the Leisure and Cultural Services Department to take up the post of dedicated cultural staff. Mr MA and Mr CHUNG opined that apart from the Beijing Office, the Administration should also consider creating posts of dedicated cultural staff in other Mainland Offices. In addition, they urged the Administration to proactively assist Hong Kong arts groups, particularly those of a smaller scale, to participate in cultural exchange activities held in the Mainland. Mr CHAN Han-pan expressed the same opinion. Mr MA pointed out that the various Mainland Offices should pay more attention to the developments of cultural policies and statutes in the Mainland, and promptly disseminate the latest information to the relevant sectors in Hong Kong.

15. DS(CMA)3 responded that the Government would deploy a senior official from the Leisure and Cultural Services Department to take up the post of dedicated cultural staff in the Beijing Office, and the post was expected to be filled by mid-2016. The scope of work of the dedicated cultural staff would not be confined to Beijing. Depending on the effectiveness and

operational experience of the work on promoting cultural exchange and cooperation between Hong Kong and the Mainland, the Government would from time to time review the establishment of relevant staff in the Mainland Offices. He supplemented that the Government was committed to strengthening the services provided by Mainland Offices, with a view to disseminating to Hong Kong arts groups the latest information on the cultural exchange activities and policies in the Mainland in a more timely manner. In fact, the Beijing Office had all along been maintaining contacts with the Mainland ministries and commissions in this regard, and closely monitoring the developments of major policies and statutes in the Mainland through Mainland official websites and other channels. If Hong Kong arts groups encountered any difficulties when participating in Mainland cultural exchange activities, they could relay the situation to and seek help from the relevant government departments.

#### Promoting the tourism industry of Hong Kong and addressing China-Hong Kong conflicts

16. Mr YIU Si-wing expressed support for the establishment proposal. He relayed the views of the tourism sector that the Administration should collaborate with the Hong Kong Tourism Board ("HKTB") in formulating concrete measures to enhance efforts in promoting Hong Kong's tourism industry in the Mainland. He considered that the Constitutional and Mainland Affairs Bureau should conduct thematic studies and analyses (such as studying the impact of the opening of Shanghai Disneyland on Hong Kong's tourism industry) and provide the relevant bureaux/departments with the outcomes and specific recommendations, with a view to enhancing the competitiveness of the Hong Kong tourism industry.

17. DS(CMA)3 remarked that the five Mainland Offices under the Constitutional and Mainland Affairs Bureau, HKTB and the Hong Kong Trade Development Council ("HKTDC") served different functions. While promoting the Hong Kong tourism industry was mainly the responsibility of HKTB, the Mainland Offices supported HKTB's work to achieve synergy. The Mainland Offices met with representatives of HKTB and HKTDC on a regular basis to discuss collaboration in promoting the tourism industry of Hong Kong as well as other business and trade matters.

18. The Chairman pointed out that the protest against Mainland visitors that took place in Hong Kong in recent years might discourage them from visiting Hong Kong. She asked about the measures to be adopted to improve Mainland visitors' impression of Hong Kong, and whether the Administration had endeavoured to clarify misunderstandings with the official media and Internet media in the Mainland with a view to restoring Hong Kong's reputation.

19. Mr Christopher CHEUNG and Mr TANG Ka-piu also expressed concern about the issue of China-Hong Kong conflicts, and enquired how the holder of the proposed post would improve the relationship between the peoples of the two places. Mr Christopher CHUNG asked whether the Administration would consider hiring a public relations agency to help improve the image of Hong Kong.

20. Acting PSCMA and DS(CMA)3 responded that the Government's work in promoting the tourism industry of Hong Kong to Mainland visitors was multifaceted, and one of the major strategies was to promote the image of Hong Kong as a "hospitable city" through the Mainland media. The Government had been maintaining contact with a number of Mainland media (especially official media) and organizing promotional activities jointly with HKTB. The Government also sought to deliver positive messages through soft selling approaches in order to enhance the mutual understanding between the peoples of the two places. In the event that Mainland visitors were in distress in Hong Kong, Mainland Offices would explain the cases to the Mainland media and agencies.

21. DS(CMA)3 supplemented that the major duties of the proposed post included deepening the economic and trade cooperation and cultural exchange between Hong Kong and the Mainland, providing support for Hong Kong residents and enterprises in the Mainland, and handling Government-to-Government affairs. Such work would be conducive to improving the relationship between the peoples of the two places. In view of the increasing workload, the Government suggested making permanent the proposed post. Currently, the Government did not have any plan to hire a public relations agency to assist in dealing with the aforesaid issues. The Government would continue to collaborate with HKTB and HKTDC in promoting the positive image of Hong Kong to Mainland residents through various channels. In recent years, Mainland television and radio programmes had been utilized for the purpose.

Regional cooperation and assisting Hong Kong enterprises in accessing the Mainland market

22. Mr TANG Ka-piu asked whether the work of the proposed post would include matters relating to Hong Kong's participation in the "Outline of the 13th Five-Year Plan for the National Economic and Social Development of the People's Republic of China" ("13th Five-Year Plan").

23. DS(CMA)3 responded that an individual chapter of the 13th Five-Year Plan was dedicated to Hong Kong and Macau. The dedicated chapter stated clearly the Central Government's intention to leverage Hong



Kong's advantages, deepen cooperation between the Mainland and Hong Kong, and support Hong Kong in playing an important role in regional cooperation within the Pan-Pearl River Delta Region. As far as regional cooperation within the Pan-Pearl River Delta Region was concerned, the responsibility of the proposed post was to coordinate the efforts of the relevant bureaux/departments to follow up the cooperation projects in various aspects, and to explore opportunities for cooperation with different provinces/municipalities as well as formulate workplans and actively implement cooperation projects with the Mainland offices.

24. Mr Christopher CHEUNG noted that the Financial Services and the Treasury Bureau had established posts to handle matters relating to financial cooperation between Hong Kong and the Mainland. He enquired about the division of work between the Constitutional and Mainland Affairs Bureau and the Financial Services and the Treasury Bureau in this respect.

25. Ir Dr LO Wai-kwok expressed support for the establishment proposal. He enquired about the measures adopted by the Constitutional and Mainland Affairs Bureau in helping Hong Kong enterprises (such as engineering firms) and professionals to enter the Mainland market, and speeding up vetting of relevant applications. He also urged the Administration to enhance efforts in promoting the relevant measures to the sectors concerned.

26. DS(CMA)3 responded that assisting Hong Kong enterprises and professionals in entering the Mainland market had been a major task of the Government in recent years. With regard to promoting the economic and trade cooperation between Hong Kong and the Mainland, the Constitutional and Mainland Affairs Bureau mainly took charge of the overall coordination work and decided on work focus annually; whereas the specific measures targeted at individual industries would be studied and implemented by the relevant policy bureaux. For example, the Constitutional and Mainland Affairs Bureau was responsible for coordinating the efforts relating to the regional cooperation within the Pan-Pearl River Delta Region and the cooperation between Guangdong Province and Hong Kong, and providing secretariat services for the relevant meetings. The details relating to the financial services under the cooperation framework would be studied and followed up by the Financial Services and the Treasury Bureau. As regards assisting the professionals and enterprises of the engineering sector in accessing the Mainland market, the Government and the Authority of Qianhai Shenzhen-Hong Kong Modern Service Industry Cooperation Zone of Shenzhen ("Qianhai") had formulated a framework proposal to introduce Hong Kong's engineering management regime into Qianhai, so as to enable the Hong Kong engineering sector to provide one-stop professional services in Qianhai.

27. Mr CHAN Han-pan enquired about the role of the Mainland Offices in helping young people in Hong Kong to set up businesses in the Mainland. DS(CMA)3 advised that the work in this respect was also a focus of the Constitutional and Mainland Affairs Bureau in recent years. The target clients of the Enterprise Dream Park in Qianhai and the Business Startup Bases for the Youth in Nansha area of Guangzhou included the young people of Hong Kong. At present, about 50% of the entrepreneur teams already stationed in the Qianhai Enterprise Dream Park came from Hong Kong, and the Park's partners included non-governmental organizations in Hong Kong. Moreover, the Youth Development Fund to be set up by the Government shortly would provide subsidies for young people to set up businesses within or outside Hong Kong.

Ranking of the proposed post and staffing arrangements of the Constitutional and Mainland Affairs Bureau

28. Mr WU Chi-wai objected to the Administration's proposal. Given that the proposed post was pitched at D2 level, which was of a lower rank compared with the directors of some Mainland Offices, he queried whether the post holder could effectively coordinate and steer the work of Mainland Offices.

29. Acting PSCMA and DS(CMA)3 remarked that the post holder would work mainly in Hong Kong rather than in the Mainland. The officer would underpin DS(CMA)3 (D3), whose direct supervisor was PSCMA (D8). They stressed that government officials would uphold professionalism and collectively implement the various measures set out in the paper, and differences in the ranks would not hinder their cooperation. The coordination work of the proposed post would not be affected by its rank.

30. Given that the post holder would not be stationed in the Mainland, Mr WU Chi-wai questioned how the post could enhance the services provided by the Mainland Offices. He sought clarification on the existing service baseline of the Mainland Offices, and how the services would be enhanced upon creation of the permanent post. In addition, he considered that some of the duties of the proposed post (such as promoting regional cooperation within the Pan-Pearl River Delta Region) should be taken up directly by the Mainland Offices.

31. DS(CMA)3 remarked that the Constitutional and Mainland Affairs Bureau coordinated the efforts of difference bureaux and departments in promoting cooperation between Hong Kong and the Mainland in various aspects. For example, after the State Council issued the Guiding Opinion on Promoting Cooperation within the Pan-Pearl River Delta Region, the

Constitutional and Mainland Affairs Bureau was tasked with coordinating the efforts of relevant bureaux and departments to enhance Hong Kong's cooperation with the Pan-Pearl River Delta Region. As the regional cooperation within the Pan-Pearl River Delta Region involved bilateral or multilateral cooperation agreements between Hong Kong and Mainland provinces/municipalities and the Macau Special Administrative Region, the relevant negotiation work should be taken up by officers stationed in Hong Kong instead of the Mainland Offices.

32. Acting PSCMA supplemented that the various Mainland Offices were responsible for dealing with local businesses in the Mainland. As regards the issues that required central coordination (such as regional cooperation matters), they would be handled by officers of the Constitutional and Mainland Affairs Bureau. Given that the various duties set out in the paper, including formulating strategies and plans to implement policy initiatives relating to enhancing the functions of Mainland Offices, would be the responsibilities of the holder of the proposed post, it was considered appropriate to create the post in the headquarters of the Constitutional and Mainland Affairs Bureau.

33. In response to the question of how the proposed post could enhance the quality of the services provided by Mainland Offices, DS(CMA)3 pointed out that the paper submitted by the Government had already set out details of the relevant policy measures, including the establishment of six additional liaison units under Mainland Offices.

34. Mr POON Siu-ping expressed support for the Administration's proposal. He noticed that the proposed supernumerary directorate post and two time-limited non-directorate posts would lapse on 30 June 2016. He asked whether the work of the proposed post would be affected if the proposal was not approved by the Finance Committee ("FC") before that date, and what contingency plans the Administration had in place.

35. DS(CMA)3 advised that the proposed post would be made permanent with effect from 1 July 2016 or immediately upon approval of FC (whichever was later). If FC's approval was not granted before the lapse of the post, the Constitutional and Mainland Affairs Bureau would need to discuss the interim manpower arrangement with the Civil Service Bureau. The two time-limited non-directorate posts would be converted into permanent posts with effect from 1 July 2016, and approval of FC would not be required.

36. Acting PSCMA supplemented that the Government had considered the feasibility of redeploying the eight existing permanent directorate officers at D2 level under the Constitutional and Mainland Affairs Bureau to share the work of the proposed post; but since they were fully engaged with their own

portfolios, this option was not viable. As such, the Bureau proposed to make permanent the post to cater for the long-term operational needs and enable the post holder continue to discharge the aforementioned duties.

Voting on the item

37. The Chairman put the item EC(2015-16)19 to vote. At the request of Mr Albert CHAN, the Chairman ordered a division and the division bell rang for five minutes. Nineteen members voted for the item and seven voted against the item. The Chairman declared that the Subcommittee agreed to recommend the item to FC for approval. The votes of individual members were as follows:

*For*

Mr CHAN Kam-lam	Mr TAM Yiu-chung
Mr WONG Kwok-hing	Mr CHAN Hak-kan
Mr WONG Kwok-kin	Mr IP Kwok-him
Mr NG Leung-sing	Mr Steven HO
Mr YIU Si-wing	Mr MA Fung-kwok
Mr Charles MOK	Mr CHAN Han-pan
Mr LEUNG Che-cheung	Mr KWOK Wai-keung
Mr Christopher CHEUNG	Mr POON Siu-ping
Mr TANG Ka-piu	Ir Dr LO Wai-kwok
Mr Christopher CHUNG	
(19 members)	

*Against*

Mr Albert HO	Mr Albert CHAN
Mr WU Chi-wai	Mr CHAN Chi-chuen
Mr Kenneth LEUNG	Dr Fernando CHEUNG
Mr Alvin YEUNG	
(7 members)	

38. Mr Albert CHAN requested separate voting for the item at the relevant FC meeting.

**EC(2015-16)20 Proposed creation of two supernumerary posts of one Administrative Officer Staff Grade B (D3) and one Administrative Officer Staff Grade C (D2) in the Communications and Creative Industries Branch of the Commerce and Economic Development Bureau for three years with immediate effect upon approval of the Finance Committee to conduct a review of the Telecommunications Ordinance (Cap. 106) and the Broadcasting Ordinance (Cap. 562) and complete the associated legislative exercise**

39. The Chairman remarked that the Administration's proposal was to create two supernumerary directorate posts in the Communications and Creative Industries Branch of the Commerce and Economic Development Bureau for three years to conduct a review of the Telecommunications Ordinance (Cap. 106) and the Broadcasting Ordinance (Cap. 562) and complete the associated legislative exercise.

40. Ir Dr LO Wai-kwok, Deputy Chairman of the Panel on Information Technology and Broadcasting, reported that the proposal was discussed by the Panel on 9 November 2015, and Panel members were in general supportive of the Administration submitting the proposal to the Establishment Subcommittee. Panel members expressed support to reviewing the Telecommunications Ordinance and Broadcasting Ordinance, and enquired about issues including the scope and timetable of the review. They requested the Administration to provide more information on the preparatory work for the review before submitting the establishment proposal to FC for approval. Some Panel members queried the need to create supernumerary posts to handle the review, as they considered that the Administration should have initial ideas on the way forward given that background research had been conducted for the review; and the establishment of the Innovation and Technology Bureau should have helped improve the manpower situation in the Commerce and Economic Development Bureau.

#### Scope and timetable of the review

41. Mr CHAN Chi-chuen and Mr Charles MOK opined that it was high time for the Administration to conduct a comprehensive review of the Telecommunications Ordinance and Broadcasting Ordinance so as to cope with the trend of integration of the telecommunications and broadcasting markets. They and Mr Albert CHAN enquired about the direction, scope and timetable of the review. Given that it would take considerable time to conduct a comprehensive review of the Ordinances, Mr MOK and Mr CHAN Chi-chuen opined that the Administration should deal with more urgent issues first, such as enhancing the protection for underground telecommunications

infrastructures.

42. Mr Alvin YEUNG questioned whether the review could complete within three years. He enquired whether the four issues mentioned in paragraph 7(a) to (d) of the paper that would be given priority would be handled in one go or one by one. Mr Martin LIAO enquired about the justifications for setting the duration of the two supernumerary posts at three years, and whether the duties of the two posts included reviewing the functions of the Communications Authority ("CA") and amending the relevant legislation.

43. Acting Permanent Secretary for Commerce and Economic Development (Communications and Creative Industries) ("Acting PS(CCI)") advised that the comprehensive review of the two Ordinances would involve a lot of complicated issues. The proposed issues to be given priority, such as cross-media ownership restrictions and foreign ownership restrictions, aimed at addressing the concerns raised by the industry and the public in relation to the relevant regulatory mechanisms under the two Ordinances. The Government recognized that these issues were extensive in scope and difficult to handle. The Government would establish a dedicated team to conduct an extensive policy and legal research into the existing provisions of the two Ordinances as well as the developments in other comparable jurisdictions, and would consult the public in this regard. The dedicated team would formulate a detailed plan for the issues to be reviewed and the timetable concerned, and might adjust the priorities and scope of the review taking into account the actual work progress and stakeholders' views. The dedicated team would also consider whether all issues should be handled in the same public consultation, or separate public consultations should be conducted on individual issues which were more complicated. The actual time required for the review would depend on the work plan and progress of the dedicated team. Hence, the direction for the review was not confirmed at this stage, and it would be difficult to estimate the time required to complete the review. With reference to past experience in creating supernumerary posts, the Government considered it proper and prudent to create the two proposed posts for three years initially. The Government would review the need to retain the proposed posts after the three-year period, and would submit a relevant proposal in accordance with the established mechanism if necessary. He also explained that the dedicated team would review legislative amendments to enhance CA's efficiency in the performance of its statutory functions. The Government was aware of the telecommunications industry's requests for amending the legislative provisions to improve protection of underground telecommunications infrastructures and aligning the provisions with those related to other infrastructures (such as water and power supply facilities). This issue would be included in the review.

44. Mr Albert CHAN expressed concern that the Government would delay the opening up of the telecommunications and broadcasting markets under the pretext that it would take time to complete the review. Acting PS(CCI) clarified that the Administration had come up with the initial idea some years before to undertake a comprehensive review of the two Ordinances after the single independent statutory regulator of the telecommunications and broadcasting sectors (i.e. the present CA) had been established and accumulated operational experience. As the issues covered in the review were complex and required public consultation and consensus building, it was expected that the review would take considerable time to complete. Nevertheless, the Government had not changed its stance of opening up the markets. He stressed that the overall direction of the Government's broadcasting policy was to provide the public with a diversity of programmes, and encourage competition in the industry. In fact, the number of broadcasting licences had increased in recent years, and some new television stations had already come into operation. A recent case of the Court of Appeal also confirmed that the Government's decision on an application for free television service licence had not run against the established broadcasting policy.

#### Licensing mechanism

45. Mr CHAN Chi-chuen, Mr Charles MOK, Mr Albert CHAN and Mr Albert HO pointed out that the Executive Council ("ExCo")'s rejection of the free television service licence application from Hong Kong Television Network Limited ("HKTV") had aroused grave public concern. The company also lodged a judicial review against ExCo's decision. The incident revealed that there might be loopholes in the existing Broadcasting Ordinance. They urged the Administration to enhance the transparency of the licensing process, and enquired whether consideration would be given to amending the licensing mechanism and devolving the power of the Chief Executive in Council in vetting and approving licence applications.

46. Acting PS(CCI) advised that issues that had been given priority in this review included the licensing mechanisms for various telecommunications and broadcasting services. Upon completion of the review, the Government would report the outcomes and recommendations to the relevant Panel(s) of the Legislative Council. He stressed that the Government understood Members' concerns over the transparency of the licensing mechanisms. As for the current licensing mechanism for free television service, in line with the confidentiality principle of ExCo, the Government could not disclose details of ExCo's discussion. Nevertheless, after a decision was made by ExCo, the Government would explain to the public the principles and rationales behind the decision. During the proceedings of the aforesaid juridical review case, the Government had also disclosed more information on the procedure in

vetting HKTV's licence application.

Regulation of online television and radio stations

47. Mr Charles MOK, Mr Albert CHAN, Mr Alvin YEUNG and Mr LEUNG Kwok-hung were concerned that the Administration would tighten the regulation of online television and radio stations through this review, thereby constraining the development of online television and radio stations and hindering freedom of speech. Mr MOK suggested that during rationalization of the licensing powers in respect of telecommunications and broadcasting services, the Administration should adopt the less stringent licensing requirements under the Telecommunications Ordinance.

48. Acting PS(CCI) explained that the current Broadcasting Ordinance expressly provided that services provided on the Internet were not governed by the Ordinance. He emphasized that the exemption provision was not an issue of priority in this review. However, the possibility that the public might express views on the exemption provision during the review could not be ruled out, and hence the Government could not exclude the provision from the scope of the review. The Government remained neutral on the question whether the regulatory regime of online television and radio stations should be adjusted.

49. Ms Cyd HO opined that the Administration should introduce provisions to protect freedom of the press when amending the two Ordinances. Mr Albert HO and Mr LEUNG Kwok-hung shared a similar view and enquired whether any guiding principles had been established for this review.

50. Acting PS(CCI) advised that the Government would take into account Members' views when conducting the review. He pointed out that it had always been the Government's principle to safeguard freedom of the press. The Television and Radio Programme Codes issued by CA also required media to ensure that the information reported was correct and the views of different parties were balanced in their news reporting. In addition, the Government had explained its policy objective of encouraging competition during the scrutiny of the legislative amendments to the Telecommunications Ordinance and Broadcasting Ordinance in the past.

*(The Chairman left the meeting venue at 10:07 am, and the Deputy Chairman took the chair. The Chairman resumed the chair at 10:10 am.)*

*(At 10:24 am, the Chairman suggested that the meeting be extended for 15 minutes up to 10:45 am. Members did not raise any objection.)*



Action

51. The Chairman advised that the Subcommittee would continue to discuss this item at the next meeting.
52. The meeting ended at 10:43 am.

Council Business Division 1  
Legislative Council Secretariat  
8 June 2016