

立法會
Legislative Council

LC Paper No. CB(1)1274/18-19
(These minutes have been seen
by the Administration)

Ref : CB1/BC/9/18

**Bills Committee on Broadcasting and Telecommunications Legislation
(Amendment) Bill 2019**

**Minutes of second meeting
held on Tuesday, 7 May 2019, at 10:30 am
in Conference Room 2 of the Legislative Council Complex**

- Members present** : Dr Hon Elizabeth QUAT, BBS, JP (Chairman)
Hon WONG Ting-kwong, GBS, JP
Hon Frankie YICK Chi-ming, SBS, JP
Hon MA Fung-kwok, SBS, JP
Hon Charles Peter MOK, JP
Hon CHAN Chi-chuen
Hon Christopher CHEUNG Wah-fung, SBS, JP
Hon Alvin YEUNG
Hon Jimmy NG Wing-ka, JP
- Members absent** : Hon Starry LEE Wai-king, SBS, JP
Hon Holden CHOW Ho-ding
Hon HUI Chi-fung
- Public Officers attending** : Agenda item I
Commerce and Economic Development Bureau
Mr Edward TO, JP
Deputy Secretary for Commerce and Economic
Development (Communications and Creative
Industries) (Special Duties)

Mr Tony YIP
Principal Assistant Secretary for Commerce and
Economic Development (Communications and
Creative Industries) (Special Duties)

Mr Alex LAU
Assistant Secretary for Commerce and Economic
Development (Communications and Creative
Industries) (Special Duties)

Department of Justice

Mr Vincent WAI
Government Counsel

**Attendance by
invitation** : Agenda item I

Hong Kong Cable Television Limited

Miss Prairie CHUNG
General Counsel and Head of Legal and Regulatory
Affairs

Fantastic Television Limited

Ms Fiona LEE
Executive Director

PCCW Media Limited

Ms Veronica LOCKYER
Head of Group Regulatory Affairs

HK Television Entertainment Company Limited

Ms Eva CHAN
General Manager
Regulatory Affairs and Compliance

Clerk in attendance : Mr Daniel SIN
Chief Council Secretary (1)6

Staff in attendance : Miss Evelyn LEE
Assistant Legal Adviser 10

Ms Mandy LI
Senior Council Secretary (1)6

Mr Patrick CHOI
Council Secretary (1)6

Miss Yolanda CHEUK
Legislative Assistant (1)6

Action

I. Meeting with deputations and the Administration

Submissions from deputations attending the meeting

Submissions from deputations not attending the meeting

(LC Paper No. CB(1)1009/18-19(03) — Submission from Television
Broadcasts Limited (English
version only))

Meeting with the Administration

Matters arising from previous meeting

(LC Paper No. CB(1)1009/18-19(01) — List of follow-up actions
arising from the meeting on
16 April 2019)

LC Paper No. CB(1)1009/18-19(02) — Administration's response to
the issues raised at the
meeting on 16 April 2019)

Relevant papers

(LC Paper No. CB(3)455/18-19 — The Bill

File Ref.: — Legislative Council Brief
CCIB/SD 605-5/1 C11

- LC Paper No. LS60/18-19 — Legal Service Division Report
- LC Paper No. CB(1)891/18-19(01) — Marked-up copy of the Bill prepared by the Legal Service Division (Restricted to members)
- LC Paper No. CB(1)891/18-19(02) — Background brief prepared by the Legislative Council Secretariat
- LC Paper No. CB(1)891/18-19(03) — Assistant Legal Adviser's letter dated 9 April 2019 to the Administration
- LC Paper No. CB(1)891/18-19(04) — Administration's reply to Assistant Legal Adviser's letter dated 9 April 2019)

(A list of relevant papers previously issued is available on the Legislative Council website at <https://www.legco.gov.hk/yr18-19/english/bc/bc09/general/bc09.htm>)

The Bills Committee deliberated (index of proceedings in the **Appendix**).

Follow-up actions to be taken by the Administration

2. The Administration was requested to respond to the views and concerns expressed by deputations at the meeting, and in particular whether there is scope of amending section 6 of the Broadcasting Ordinance (Cap. 562) to further strengthen copyright protection for the broadcasting sector.

(Post-meeting note: A list of follow-up actions arising from the discussion, vide LC Paper No. CB(1)1107/18-19(01), was issued to the Administration on 14 May 2019. The Administration's response dated 24 May 2019, vide LC Paper No. CB(1)1107/18-19(02), had been circulated to members on 27 May 2019.)

II. Any other business

3. The Administration informed members that it would arrange the second

reading of the Bill as soon as practical. There being no other business, the meeting ended at 11:46 am.

Council Business Division 1
Legislative Council Secretariat
19 July 2019

**Bills Committee on Broadcasting and Telecommunications Legislation
(Amendment) Bill 2019**

**Proceedings of second meeting
held on Tuesday, 7 May 2019, at 10:30 am
in Conference Room 2 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
Agenda item I — Meeting with deputations and the Administration			
000524 – 000853	Chairman	Opening remarks	
000854 – 001129	Chairman Miss Prairie CHUNG, Hong Kong Cable Television Limited ("Cable TV")	Presentation of views [LC Paper No. CB(1)1050/18-19(01)]	
001130 – 001525	Chairman Ms Fiona LEE, Fantastic Television Limited ("Fantastic TV")	Presentation of views [LC Paper No. CB(1)1050/18-19(02)]	
001526 – 001854	Chairman Ms Veronica LOCKYER, PCCW Media Limited	Presentation of views [LC Paper No. CB(1)1050/18-19(03)]	
001855 – 002220	Chairman Ms Eva CHAN, Hong Kong Television Entertainment Company Limited ("HKTVE")	Presentation of views [LC Paper No. CB(1)1050/18-19(04)]	
002221 – 002718	Chairman Administration	The Administration's responses to the deputations' views were as follows – (a) the Government played the role of a facilitator to reduce the licensees' compliance cost and facilitate innovation and sustainable development of the industry; (b) the broadcasting regulatory framework comprised several aspects, namely the legislation, licence conditions and codes of practice, as well as administrative measures;	

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		<p>(c) a multipronged approach had been adopted to facilitate the development of Hong Kong's broadcasting industry. The following relaxation measures on several fronts had been put forward to address the imbalance between the regulatory frameworks for traditional broadcasting services and Internet media –</p> <p>(i) legislative proposals put forward in the Bill. The Administration was pleased to know that stakeholders welcomed and supported them;</p> <p>(ii) non-legislative measures such as the revision to code of practice to relax the regulation of indirect advertising in TV programme services and to lift the prohibition on the broadcast of advertisements for undertakers and associated services in July 2018; and</p> <p>(iii) other administrative measures such as streamlining the reporting requirements of domestic free television programme service ("free TV") licensees, etc.;</p> <p>(d) the Communications Authority ("CA") would conduct a holistic review of the licence requirements in the mid-term review of the free TV licences ("mid-term review") which would commence progressively in 2021-2022, during which the comments and suggestions of the industry would be taken into account in considering any necessary changes to the licence requirements; and</p> <p>(e) the Administration would continue to listen to the views of the industry, with a view to facilitating development of the broadcasting industry.</p>	
002719 – 003153	Chairman Mr Charles Peter MOK Miss Prairie CHUNG, Cable TV Ms Eva CHAN, HKTVE	<p>Mr Charles Peter MOK asked the deputations what else the Administration could do to restore the imbalance between the regulations on traditional broadcasters and the Internet media.</p> <p>General Counsel and Head of Legal and Regulatory Affairs, Cable TV suggested relaxing the restrictions on the programmes contents of TV licensees. By comparison, Internet media and</p>	

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		<p>over-the-top ("OTT") services were not subject to such regulation.</p> <p>General Manager in Regulatory Affairs and Compliance, HKTVE said that according to the Generic Codes of Practice for Television, programmes classified into the "Mature" category might be shown on free TV after 11:30 pm only. Advertisements of a list of products or services, such as clinical laboratory testing services; cosmetic surgery and slimming or weight reducing measures involving the use of medical preparations; and hair transplantation treatment, were not acceptable to be shown on free TV. She commented that these restrictions had confined the sources of income for free TV licensees, and suggested that the Administration might consider whether such restrictions could be relaxed.</p>	
003154 – 003700	<p>Chairman Mr MA Fung-kwok Ms Fiona LEE, Fantastic TV Administration</p>	<p>Mr MA Fung-kwok asked the deputations how they would suggest to relax the requirement for free TV licensees to operate a 24-hour English channel.</p> <p>Executive Director, Fantastic TV commented that the English-speaking population in Hong Kong was declining, and English language programmes were readily available from OTT services and Internet media. She pointed out that the current requirement for a free TV licensee to operate a 24-hour English channel was a heavy burden. She suggested that the Administration should review whether the requirement could be removed or modified by, for example, allowing a licensee to include Putonghua programmes in the English channel.</p> <p>The Administration responded that –</p> <ul style="list-style-type: none"> (a) the requirement for a free TV licensee to provide an English channel ("English channel requirement") was specified in the conditions of its licence; (b) given Hong Kong was an international city and that English was an official language, the English channel requirement appeared reasonable; and (c) the up-coming mid-term review would be a more appropriate avenue for a holistic review 	

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		<p>of various regulatory issues including the English channel requirement, considering the potentially far-reaching implications of these issues on the general public and free TV audience.</p>	
003701 – 004230	<p>Chairman Mr Charles Peter MOK Administration Ms Eva CHAN, HKTVE</p>	<p>Mr Charles Peter MOK asked how the Administration would respond to the sector's concern about copyright infringement in the Internet media and some OTT services. He said that, although section 6 of the Broadcasting Ordinance (Cap. 562) provided for the regulation of unauthorized decoders, the provision was restricted and seemed obsolete. Mr MOK asked if the Administration would consider strengthening the protection of copyright by provisions under Cap. 562 or under the Copyright Ordinance (Cap. 528).</p> <p>The Administration responded that –</p> <p>(a) protection of intellectual property rights was provided under Cap. 528 and there had been successful cases of prosecution against copyright infringement of broadcast television programmes; and</p> <p>(b) the Administration would provide supplementary information concerning the protection of broadcasting industry under section 6 of Cap. 562 after the meeting.</p> <p>General Manager in Regulatory Affairs and Compliance, HKTVE welcomed Mr MOK's enquiry and said it would be fairer if licensees' rights and responsibilities would be embodied side by side under Cap. 562, instead of relying on a separate ordinance to protect their copyright.</p>	<p>The Administration to follow up as per paragraph 2 of the minutes.</p>
004231 – 004641	<p>Chairman Mr MA Fung-kwok Ms Eva CHAN, HKTVE</p>	<p>Mr MA Fung-kwok asked the deputations what specific measures should be introduced to regulate OTT service providers and the Internet media.</p> <p>Acknowledging the difficulty of regulating the contents of Internet media, General Manager in Regulatory Affairs and Compliance, HKTVE suggested that it might be more practical to relax the regulations on traditional broadcasters instead.</p>	

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004642 – 005022	Chairman Administration Ms Eva CHAN, HKTVE	<p>The Chairman commented that broadcasters considered the licensing requirements to broadcast Radio Television Hong Kong ("RTHK")'s programmes unfair as the latter now had their own TV channels and was a competitor to them.</p> <p>The Administration responded that –</p> <ul style="list-style-type: none"> (a) RTHK, as a public service broadcaster, had only started to operate its own TV channels since 2014, and its TV broadcasting services were still in a developing stage; (b) free TV licensees should have the social responsibility to broadcast RTHK programmes and announcements in the public interest in appropriate designated time slots; (c) the requirements had been evolving. For example, the Administration had introduced rescheduling flexibility to relevant free TV licensees in broadcasting RTHK programmes in 2015; and (d) it was appropriate that the current arrangement for free TV licensees to broadcast RTHK's programmes should remain. <p>General Manager in Regulatory Affairs and Compliance, HKTVE responded that it was not equitable for HKTVE, which began operation in 2016, to have to broadcast 2.5 hours of RTHK programmes weekly via its Chinese channel, in addition to the 22 hours of programmes under the Positive Programme Requirement ("PPR"), when RTHK had one TV channel more than HKTVE.</p> <p>The Administration responded that –</p> <ul style="list-style-type: none"> (a) free TV licensees were exempt from spectrum utilization fee in recognition of their social responsibility; and (b) having said that, the Administration undertook to convey the above concerns to CA for consideration in the upcoming mid-term review. 	

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005023 – 005153	Chairman Administration	<p>Upon the Chairman's enquiry, the Administration responded that –</p> <ul style="list-style-type: none"> (a) CA would review its codes of practice (e.g. Advertising Standards and Programme Standards) from time to time to take account of changing community attitudes and standards; (b) the trade's concerns would be conveyed to CA for consideration; and (c) the trade's views would also be considered in the mid-term review in 2021-2022. <p>The Chairman said the deputations could provide supplementary information after the meeting, if so wished, to justify their claims that certain restrictions on advertisements were unreasonable.</p>	
005154 – 005606	Chairman Mr Charles Peter MOK Administration	<p>Mr Charles Peter MOK asked whether the Administration could lower the licence fees for TV programme services to enhance the competitiveness of local media amidst the fierce international competition for the global OTT business.</p> <p>The Administration responded that the licence fees were determined according to the full-cost recovery principle, and there was no plan to revise the principle at the moment.</p> <p>Mr Charles Peter MOK commented that the economic benefits associated with developing the TV broadcasting sector in Hong Kong should outweigh the importance of upholding the "full-cost recovery" principle.</p>	
005607 – 010230	Chairman Mr Charles Peter MOK Administration	<p>Mr Charles Peter MOK noted that the regulations of TV and sound broadcasting services were under different laws. He said that the two services were similar and asked whether the two regulatory regimes should be aligned.</p> <p>The Administration responded that –</p> <ul style="list-style-type: none"> (a) as far as the legislative requirements were concerned, the regulatory frameworks (such as that on cross media restrictions) for TV and sound broadcasting services were largely 	

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		<p>similar although they were regulated mainly under two different ordinances (i.e. Cap. 562 and Part 3A of the Telecommunications Ordinance (Cap. 106)) and the Bill had indeed proposed to align some aspects of the two ordinances (e.g. definition of disqualified person); and</p> <p>(b) as for the non-legislative regulatory requirements (e.g. codes of practices), they were drawn up by CA as a unified regulatory body for both TV and sound broadcasting services taking account of the respective needs and situations of the TV and sound broadcasting industries.</p> <p>Mr Charles Peter MOK suggested that issues related to outdated provisions in the codes of practice or the discrepancies in the regulation of TV and sound broadcasting services should be brought to the Panel on Information Technology and Broadcasting for follow-up.</p> <p>The Chairman concluded that the Administration should consider and review measures that would support the development of TV services, including reducing the air-time of PPR programmes, allowing programmes for adult viewers to be broadcast at an earlier time of the day, and relaxing the restrictions on advertisement on TV. The Chairman invited the Administration to provide supplementary information so that the Panel could follow up as appropriate.</p>	
010231 – 010806	Chairman Assistant Legal Adviser 10 ("ALA 10") Mr Charles Peter MOK Administration	<p>The Chairman directed to proceed to Clause-by-clause examination of the Bill (LC Paper No. CB(3)455/18-19).</p> <p><u>Clause 1 – Short title and commencement</u></p> <p><u>Clause 2 – Enactments amended</u></p> <p><u>Clause 3 – Section 8 amended (to whom licence may be granted)</u></p> <p><u>Clause 4 – Section 45 added</u></p> <p><i>45. Transitional and savings provisions — Broadcasting and Telecommunications Legislation (Amendment) Ordinance 2019</i></p>	

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		<p><u>Clause 5 – Schedule 1 amended (disqualification for holding domestic free or pay television programme service licences and restriction on voting control of voting controllers)</u></p> <p>Mr Charles Peter MOK asked whether the word "shall" in other parts of the ordinance would equally be amended to "must". The Administration responded that according to established drafting policies, such amendment would be made when the opportunity arose.</p>	
010807 – 011431	Chairman Mr Charles Peter MOK Administration	<p><u>Clause 6 – Schedule 4 amended (domestic free television programme service supplementary provisions)</u></p> <p><u>Clause 7 – Schedule 5 amended (domestic pay television programme service supplementary provisions)</u></p> <p><u>Clause 8 – Schedule 8 amended (transitional and savings provisions)</u></p> <p><u>Clause 9 – Schedule 9 amended (consequential amendments)</u></p> <p><u>Clause 10 – Schedule 10 added</u> <i>Schedule 10 Transitional and Savings Provisions — Broadcasting and Telecommunications Legislation (Amendment) Ordinance 2019</i></p> <p>Upon Mr Charles Peter MOK's enquiry, the Administration responded that the main effect of Clause 10 of the Bill was that any licence applications or licence extension or renewal applications that were pending immediately before the commencement date were to be dealt with in accordance with the relaxed requirements as introduced by the Bill. The policy objective was to facilitate the industry by not requiring them to resubmit an application in order to benefit from the relaxed requirements.</p>	
011432 – 011850	Chairman Administration	<p><u>Clause 11 – Section 13A amended (interpretation)</u></p> <p><u>Clause 12 – Section 13F amended (competence of licensees)</u></p>	

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		<p><u>Clause 13 – Section 36A amended (Authority may determine terms of interconnection)</u></p> <p><u>Clause 14 – Section 44 added</u> <i>44. Transitional and savings provisions — Broadcasting and Telecommunications Legislation (Amendment) Ordinance 2019</i></p> <p><u>Clause 15 – Schedule 4 added</u> <i>Schedule 4 Transitional and Savings Provisions — Broadcasting and Telecommunications Legislation (Amendment) Ordinance 2019</i></p> <p>The Chairman asked what the difference was between the proposed Schedule 4 under Cap. 106 and the proposed Schedule 10 under Cap. 562.</p> <p>The Administration responded that certain provisions under section 6 were unique to the proposed Schedule 4.</p>	
Agenda item II — Any other business			
011851 – 011948	Chairman	End of meeting	