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30 October 2020

Ms Angel SHEK
Chief Council Secretary (1)1
Council Business Division 1
Legislative Council Secretariat

Dear Ms SHEK,

**Finance Committee
Questions Related to FCR(2019-20)23**

Thank you for your email of 22 October 2020 relaying a letter from Hon HUI Chi-fung enquiring about the proposed retention of two supernumerary directorate posts as set out in the captioned paper. I am authorised to reply as in the ensuing paragraphs.

Dedicated Review Team

2. The Government is conducting a review of the Broadcasting Ordinance (Cap. 562) (BO) and the Telecommunications Ordinance (Cap. 106) (TO) in two phases: Phase One focuses on the television and sound broadcasting regulatory framework in response to the changes and

challenges brought about by the evolution of infotainment, and Phase Two focuses on the telecommunications regulatory framework to facilitate the advancement of telecommunications technologies particularly on 5G and Internet of Things (IoT) development. A dedicated team, comprising one supernumerary post of Administrative Officer Staff Grade B, one supernumerary post of Administrative Officer Staff Grade C and five non-directorate supporting staff, was established in the Communications and Creative Industries Branch for the review of the BO and the TO. The total annual staff cost of the dedicated team was around \$8.5 million.

Review of Broadcasting Regulatory Framework

3. The Review of Broadcasting Regulatory Framework seeks to remove outdated broadcasting regulatory requirements to further promote the development of the local broadcasting industry to tie in with the rapid evolution of the infotainment industry. The relaxation proposals put forward in the Review include relaxation of the cross-media ownership restrictions and foreign control restrictions as well as removal of the requirement of licensee being a non-subsidiary company. Since its establishment, the dedicated team has been taking forward the related work which includes conducting public consultation from February to May 2018 and the recent passage of the Broadcasting and Telecommunications Legislation (Amendment) Bill 2019 (the Bill) in the Legislative Council (LegCo) on 29 October 2020. The job descriptions of the two supernumerary posts are set out in Enclosures 1 and 2 of the Establishment Subcommittee discussion paper where mid-term review of the three free television licences is not among them.

4. Moreover, in the light of the stakeholders' views collected during the public consultation, the Communications Authority (CA) has implemented a number of facilitating measures, including relaxation of the administrative arrangements to be exercised by the CA for enforcing statutory foreign control restrictions; streamlining of the requirements for licensees to provide regular reports to the CA and provision of more time for licensees to respond to complaints.

Regulation of Internet Media

5. Internet broadcasting has been operating on different platforms through various means, and is also rapidly evolving alongside technological advancement to cater for the needs of the audience. It is therefore impractical to apply a single regulatory framework for all internet broadcasting services. Overseas experiences also suggest that there is not one legal framework that can regulate internet media comprehensively and effectively. At the moment, we consider that internet broadcasting services should remain not subject to the regulation of the broadcasting licensing framework. That said, we will continue to keep in view the development of internet broadcasting regulatory framework around the world. Internet media, like other media, need to comply with requirements under relevant legislations (e.g. the Personal Data (Privacy) Ordinance (Cap. 486) and the Control of Obscene and Indecent Articles Ordinance (Cap. 390)). Most of the laws that apply to the activities in the real world are also applicable to those on the internet.

Review of Telecommunications Regulatory Framework

6. We completed a public consultation in 2019 proposing four measures under two major themes, namely “Embracing the Arrival of 5G and IoT Technologies” and “Trade Facilitation”. The four measures include regulation of telecommunications functions of devices in the 5G and IoT era, enhanced protection of underground telecommunications infrastructure, simplifying the issue of non-carrier licences and improving the appeal mechanism under the TO. We are drafting an amendment bill to give effect to the above measures that aims to streamline the regulatory and licensing procedures under the TO to promote the development of 5G and IoT technologies, and to enhance the protection of underground telecommunications facilities so as to facilitate the launching of innovative 5G technological applications by the industry. We plan to introduce the amendment bill into LegCo for scrutiny within the 2020-21 legislative session.

Regulation of Person-to-Person Telemarketing Calls

7. Regarding the regulation of person-to-person telemarketing (P2P) calls, we need to review the latest social-economic situation and make reference to overseas experience in considering whether and how to follow up with the proposed regulation. Such issues including whether or not the public can choose to receive telemarketing calls, the types of telemarketing calls that should be subject to regulation, feasibility of assigning specific telephone numbers for telemarketing purposes and enforcement situations, etc. would need further consideration. As a matter of fact, the number of complaints related to P2P calls has dropped in recent years, from more than 2 000 cases in 2011 to about 250 in 2019. On the other hand, we have stepped up education and publicity efforts relating to the use of call-filtering applications. For instance, the Office of the Communications Authority has uploaded onto its website information regarding the smart use of call-filtering applications on smartphones, and organised relevant seminars and exhibitions. The Office of the Government Chief Information Officer has also been providing such information to the elderly through the Enriched ICT Training Programme for the Elderly.

Relaxation of Codes of Practice by the CA and the Related Complaint Figures

8. Since the CA's revision of the codes of practice to relax certain regulatory requirements in July 2018, it has received a total of 253 complaints (involving 138 cases) about television programme services breaching the requirements of indirect advertising/product placement. Among the cases that have been processed, two were found by the CA to have breached the requirements under the revised codes of practice relating to service sponsorship and making an announcement that the programme contained indirect advertising before the programme started respectively. The CA had issued advice to the relevant broadcasting licensees on the above breaches. Another two cases, which involved failure to announce that the programme contained indirect advertising before the start of the programme and to identify the sponsor for the featured product in the end sponsor credits respectively, were classified as

minor breaches. The remaining cases were found to be unsubstantiated. As regards the advertisements for undertaker and associated services, the CA has not received relevant complaints since relaxation of regulatory measures.

Yours sincerely,

A handwritten signature in black ink, consisting of a stylized 'Y' followed by a large loop and a horizontal stroke.

(Tony YIP)

for Secretary for Commerce and Economic Development

c.c. Office of the Communications Authority (Attn: Mr Derek Lee)
Financial Services and the Treasury Bureau (Attn: Ms Jessica Lee)