

立法會
Legislative Council

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**Subcommittee on Telecommunications
(Registration of SIM Cards) Regulation**

**Minutes of first meeting
held on Tuesday, 29 June 2021, at 9:00 am
in Conference Room 3 of the Legislative Council Complex**

Members present : Hon WONG Ting-kwong, GBS, JP (Chairman)
Hon YIU Si-wing, BBS
Hon Alice MAK Mei-kuen, BBS, JP
Hon Elizabeth QUAT, BBS, JP
Hon CHUNG Kwok-pan
Hon YUNG Hoi-yan, JP
Dr Hon CHENG Chung-tai
Hon Tony TSE Wai-chuen, BBS, JP

Members absent : Hon Christopher CHEUNG Wah-fung, SBS, JP
Hon SHIU Ka-fai, JP

**Public Officers
attending** : Agenda item II

Commerce and Economic Development Bureau

Miss Grace KWOK
Deputy Secretary for Commerce and Economic
Development (Communications and Creative
Industries) (Special Support)

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

Security Bureau

Miss Shirley YUNG, JP
Deputy Secretary for Security 1

Office of the Communications Authority

Miss Elaine HUI
Deputy Director-General
(Telecommunications)(Acting)

Mr Desmond YOUNG
Principal Regulatory Affairs Manager (Regulatory
22)

Hong Kong Police Force

Mr Frank LAW
Chief Superintendent of Police (Cyber Security and
Technology Crime Bureau)

Department of Justice

Mr Henry CHAN
Senior Assistant Law Draftsman

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

Staff in attendance : Miss Rachel DAI
Assistant Legal Adviser 2

Ms Mandy LI
Senior Council Secretary (1)6

Miss Judy YEE
Council Secretary (1)6

Miss Yolanda CHEUK
Legislative Assistant (1)6

Ms Yvonna HO
Clerical Assistant (1)6

Action

I. Election of Chairman

Election of Chairman

Mr WONG Ting-kwong, the member who had the highest precedence in the Council among members of the Subcommittee on Telecommunications (Registration of SIM Cards) Regulation ("the Regulation") present at the meeting, presided over the election of Chairman of the Subcommittee. He invited nominations for the chairmanship of the Subcommittee.

2. Mr Tony TSE Wai-chuen nominated Mr WONG Ting-kwong and the nomination was seconded by Mr YIU Si-wing. Mr WONG Ting-kwong accepted the nomination.

3. There being no other nomination, Mr WONG Ting-kwong was declared Chairman of the Subcommittee.

II. Meeting with the Administration

(L.N. 75 of 2021	-- Telecommunications (Registration of SIM Cards) Regulation
File Ref.: CCIB/SD 605-15/1	-- Legislative Council Brief
LC Paper No. LS78/20-21	-- Legal Service Division Report
LC Paper No. CB(1)1047/20-21(01)	-- Letter dated 22 June 2021 from Assistant Legal Adviser to the Administration
LC Paper No. CB(1)1047/20-21(02)	-- Background brief prepared by the Legislative Council Secretariat)

4. The Subcommittee deliberated. It was also agreed that relevant organizations should be invited to submit written views on the Regulation. (index of proceedings is in the **Appendix**).

III. Any other business

5. There being no other business, the meeting ended at 10:49 am.

Council Business Division 1
Legislative Council Secretariat
24 September 2021

**Subcommittee on Telecommunications
(Registration of SIM Cards) Regulation**

**Proceedings of first meeting
held on Tuesday, 29 June 2021, at 9:00 am
in Conference Room 3 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
Agenda item I — Election of Chairman			
000352 – 000525	Mr WONG Ting-kwong Mr Tony TSE Wai-chuen Mr YIU Si-wing	Election of Chairman	
Agenda item II — Meeting with the Administration			
000526 – 001205	Chairman Administration	Briefing by the Administration	
001206 – 002116	Chairman Mr Tony TSE Wai-chuen Administration	<p>Mr Tony TSE supported the Telecommunications (Registration of SIM Cards) Regulation ("L.N. 75") which should help deter crimes that exploited the anonymous nature of pre-paid SIM ("PPS") cards.</p> <p>Mr Tony TSE enquired about the reasons for the Administration to increase the cap on PPS cards a user could register with each telecommunications operator, and whether the increase would make law enforcement work more difficult.</p> <p>Mr Tony TSE also asked if the Real-name Registration Programme for subscriber identification module ("SIM") cards ("Registration Programme") would cover SIM service plans users.</p> <p>The Administration advised that it had considered the views gathered during the public consultation which predominantly indicated that the maximum number of PPS cards an individual and corporate user could register with a telecommunications operator originally proposed was too limited. The Administration had, accordingly, increased the cap on PPS cards for both individual and corporate users with a bigger cap provided for corporate users. The revised caps had also struck a balance for law enforcement needs.</p>	

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		<p>The Administration said that the Registration Programme would also apply to SIM service plans, but as the existing users had already registered their personal information with the respective telecommunications operators, they were not required to re-register with the operators, so long as they did not change mobile number or switch to another operator.</p>	
002117 – 003519	Chairman Mr YIU Si-wing Administration	<p>Mr YIU Si-wing supported the Registration Programme.</p> <p>Mr YIU Si-wing asked how visitors to Hong Kong would register their personal information when they bought PPS cards, and what criminal liabilities they would be subject to if they willfully provided false information for registration. Mr YIU also queried how operators would authenticate the information provided, and what liabilities and penalties operators would face if they failed to verify the information or failed to comply with the requirements as prescribed in L.N. 75.</p> <p>Mr YIU Si-wing asked whether existing PPS cards (which did not require prior registration for their use) would continue to be in circulation during the transitional periods, and whether users would need to register their personal information for these PPS cards with the relevant operators after the transitional periods had expired. Mr YIU also asked whether L.N. 75 covered roaming cards bought and activated overseas.</p> <p>The Administration replied that visitors to Hong Kong would be required to provide relevant personal information, including the visitors' name, date of birth, number and a copy of their passport (or identity document) in accordance with L.N. 75 for registering PPS cards bought and for use in Hong Kong. They could register using remote means through the Internet, mobile applications or by any other methods as provided by the operators. Further details on the registration procedure would be specified in the guidelines to be issued by the Communications Authority ("CA").</p> <p>The Administration also explained that, while operators would not be responsible for the</p>	

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		<p>truthfulness of personal information provided by users, they should verify that the information provided was consistent with that as shown in the copy of the identification document provided by the user. Operators might also make use of available third-party software or available technology to aid the authentication process. Further details on the authentication process would be elaborated in CA's guidelines.</p> <p>The Administration further advised that obtaining services by deception was an offence under the Theft Ordinance (Cap. 210), and the use of false instrument was also an offence under the Crimes Ordinance (Cap. 200). L.N. 75 would not regulate SIM cards issued and activated outside Hong Kong but used in Hong Kong (i.e. SIM cards for roaming services). Where necessary, law enforcement agencies ("LEAs") could seek assistance from their overseas counterparts for law enforcement actions involving these roaming SIM cards if they were associated with suspected criminal activities.</p> <p>The Administration explained that while it would be possible that some of the existing PPS cards would still be in circulation during phase two of the transitional period, the Administration had reminded operators to plan ahead for phasing out of the existing non-registrable PPS cards before commencement of phase two of the transitional period and operators would be required to use different packaging for new PPS cards so that consumers would be able to distinguish new PPS cards from existing ones.</p> <p>Mr YIU Si-wing asked the Administration to work out a specific cut-off date with operators for the sale of existing PPS cards, so as to avoid the confusion of having both types of PPS cards in the market. The Administration said that it would not be practically possible for setting a specific deadline as such given the complex and numerous distribution and sale channels of SIM cards in Hong Kong. Operators would be reminded to note carefully the requirements and timeline of the Registration Programme and to plan the stock and sale of their existing SIM cards ahead.</p>	

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003520 – 004523	Chairman Dr CHENG Chung-tai Administration	<p>Dr CHENG Chung-tai enquired how a telecommunications operator could ascertain whether an individual had reached his or her limit of registrable PPS card of 10 cards per operator. He also asked whether one was liable to penalty if his or her personal information had been used for the registration of PPS cards without his or her knowledge.</p> <p>The Administration replied that each telecommunications operator could determine whether an individual had reached the cap of registered PPS cards with it by checking against its database using the individual's unique identity document number. Users who had reached the cap but wished to register new cards could opt to deregister their PPS cards already registered with the same operator, or to register PPS cards with another operator.</p> <p>In response to an enquiry from Dr CHENG Chung-tai, the Administration said that each operator could set up its own system for the collection and storage of the personal information under the Registration Programme so long as such systems would be in compliance with the requirements stipulated in L.N. 75 and CA's guidelines. There was no requirement for them to set up any central database for sharing users' information and operators were reminded of the need to comply with privacy law.</p> <p>The Administration explained that L.N. 75 had not forbidden a registered user of a SIM card to let other persons use his or her SIM cards. Users who found that their identities had been used without their knowledge for registration of a SIM card should report the case to the Police for follow-up.</p>	
004524 – 005332	Chairman Ms Elizabeth QUAT Administration	<p>Ms Elizabeth QUAT supported the Registration Programme which she considered would facilitate law enforcement actions against scams and terrorist activities using anonymous PPS cards.</p> <p>Ms Elizabeth QUAT commented that effective identity authentication system such as "know-your-customer" software had been widely used in the banking and other financial services sectors. The</p>	

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		<p>iAM Smart platform introduced by the Government could also facilitate identity verification.</p> <p>Ms Elizabeth QUAT said that the public was concerned about the effectiveness of authentication process on registering SIM cards, particularly PPS cards. It was not difficult to get hold of the relevant personal information of an individual especially those of public figures and anyone might be at risk of his or her personal information being used for registering SIM cards without his or her knowledge or consent. She suggested that the Administration should issue clear guidelines for operators on how to authenticate users' identity effectively in the registration of SIM cards.</p> <p>The Administration responded that users were required to provide or upload a copy of their identity document when registering a SIM card. There were technologies that could help verify the authenticity of the uploaded document. The guidelines to be issued by CA could be regularly updated and revised in the light of new developments and latest technology available for such purposes.</p>	
005333 – 005852	Chairman Ms YUNG Hoi-yan Administration	<p>Ms YUNG Hoi-yan said that she supported the Registration Programme.</p> <p>Ms YUNG Hoi-yan suggested that the submission of a photo of an individual user should be added to the information requirement for PPS cards registration. Ms YUNG made enquiries about the operation of the Registration Programme, including how the Administration would ensure that the telecommunications operators kept proper records of the personal information collected and the SIM cards registered. She asked what penalties operators would face if they failed to do so. Ms YUNG also asked whether the Administration would prescribe an identity authentication system for all operators.</p> <p>The Administration replied that under the Registration Programme, an individual user was required to submit, among other things, a copy of his or her identity document. Telecommunications operators could make use of technologies available</p>	

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		<p>in the market as well as iAM Smart which was the latest Government application to assist them in verifying users' identity and related documents. CA would also conduct inspections to ascertain that operators had properly implemented the Registration Programme according to the Regulation and the guidelines.</p> <p>For the storage of information collected, the Administration advised that operators could set up their own authentication system to suit their own operational needs so long as such systems fulfilled the requirements stipulated in L.N. 75 and CA's guidelines.</p>	
005853 – 010826	Chairman Ms Alice MAK Mei-kuen Administration	<p>Ms Alice MAK supported the Registration Programme as she considered that it would help deter phone scams which exploited the anonymous feature of PPS cards.</p> <p>Noting that operators would be required to keep users' personal information for at least 12 months after the SIM cards had been deregistered, Ms Alice MAK queried whether the period would be sufficient for LEAs to conduct investigations. She asked the Administration to consider amending L.N. 75 to require operators to keep users' personal information for at least 18 months after the SIM cards have been deregistered.</p> <p>Ms Alice MAK also questioned the reasons for increasing the cap of PPS cards per individual user per operator. She commented that the increase might encourage people to register several cards at the same time and sell them for profits, while opening up opportunities for criminals to buy the cards and use them for illicit purposes.</p> <p>The Administration replied that, having considered the views expressed by various trades and written submissions from the public during public consultation, it had increased the cap of PPS cards registrable per user to meet their needs.</p> <p>The Administration added that it was becoming more prevalent for an individual to own or use various mobile devices operating with SIM cards. The revised cap of 10 PPS cards per individual user</p>	

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		<p>per specified licensee should be sufficient for most users even if they wished to register all PPS cards they needed with one specified licensee of their choice, while not causing too much difficulties for law enforcement at the same time.</p> <p>The Administration further advised that, in determining the duration for operators to keep registered information after a SIM card had been deactivated or deregistered, the Administration had to strike a balance between law enforcement efficacy and personal data protection considerations. The views of the Office of the Privacy Commissioner for Personal Data had also been sought over the arrangement. From past experience, most investigations on cases involving the use of SIM cards could be completed within 12 months. Where cases would require a longer period for investigation, LEAs could resort to other means to follow up. The Administration considered that there was no need to amend L.N. 75 to lengthen the period for keeping users' personal information.</p>	
010827 – 011801	Chairman Mr CHUNG Kwok-pan Administration	<p>Mr CHUNG Kwok-pan held the view that restricting each company to register up to 25 PPS cards per operator only might create additional hurdles for companies, as companies might have to source additional PPS cards from different operators. He pointed out that as each company would have set up a system that accounted for each PPS card it had registered, LEAs would be able to trace the holder of each PPS card if necessary for any investigation purposes.</p> <p>Mr CHUNG Kwok-pan suggested that the Administration should amend L.N. 75 to increase the cap to 100 PPS cards for each corporate user per operator.</p> <p>The Administration responded that during public consultation, nearly all parties concerned considered that the cap of three PPS cards for each user under each operator proposed originally was too limited. The number of PPS cards registrable by each person was unregulated at the moment and for corporate users in particular, there might be valid operational reasons for acquiring a larger number of PPS cards.</p>	

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		<p>The Administration had, accordingly, taken into account the views gathered during public consultation and increased the cap on PPS cards with a bigger cap provided for corporate users. The revised caps had also struck a balance for law enforcement needs. The Administration added that corporate users should not have difficulties in obtaining a larger number of SIM cards if they would negotiate tailor-made service plans with operators. SIM cards issued under such arrangements would not be regarded as PPS cards as such and hence would not be subject to the caps stipulated in L.N. 75. The Administration considered that any amendment to L.N. 75 to further increase the cap for corporate users was not necessary.</p>	
011802 – 012432	Chairman Dr CHENG Chung-tai Administration	<p>Dr CHENG Chung-tai expressed concern about LEAs' power to access the records of SIM cards users kept by telecommunications operators without a warrant. Dr CHENG queried whether the records were restricted to the four types of basic information a user provided when registering a SIM card, and whether such practice was consistent with any other existing ordinances or regulations.</p> <p>The Administration advised that the information LEAs could obtain under the Regulation was restricted to the registered information required to be kept by telecommunications operators under L.N. 75.</p> <p>The Administration added that in certain urgent or emergency situations, a law enforcement officer of a rank not below that of superintendent could give written authorization for LEAs to obtain the related records. There were provisions in Cap. 200 and the Immigration Ordinance (Cap. 115), etc., that endowed LEAs with the power to enter and search any premises without warrant under exigent circumstances.</p>	
012433 – 013741	Chairman Assistant Legal Adviser 2 Dr CHENG Chung-tai Administration	<p>In view of the tight legislative timetable, the Chairman proposed that the meeting should be extended by 30 minutes to complete the section-by-section examination of the subsidiary legislation. No member raised any objection.</p>	

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		<p>In relation to section 15 of L.N. 75, which did not contain any built-in restriction on the scope of CA's power, the Legal Adviser referred to paragraph 7 of the Administration's reply in its letter dated 28 June 2021 and asked the Administration to consider whether procedural safeguards, similar to those set out in section 7J(6) of Cap. 106¹, should be expressly provided for in L.N. 75 to restrict the manner in which CA might exercise its entry and inspection power rather than just relying on the principle of implied duty of reasonable care as mentioned in its reply.</p> <p>The Administration replied that as it was expressly provided in section 15(1) of L.N. 75 that CA's powers to enter and inspect were restricted to offices, premises and places used by the operators, and the powers might only be exercised for the purpose of verifying that the operators were complying with L.N. 75, the Administration considered it not necessary to expressly provide for similar procedural safeguards in L.N. 75.</p> <p>Legal Adviser pointed out that, in the course of conducting an inspection, it was possible that CA might come into contact with commercially sensitive or legally privileged information that was in an operator's custody or control. Section 15(2) of L.N. 75 provided that the operator "must provide any assistance reasonably required by CA for the inspection", but L.N. 75 did not elaborate what "assistance" was expected of the operator. Legal Adviser sought the Administration's clarifications of its assertion in paragraph 9 of its letter dated 28 June 2021 that it considered the entry and inspection power under section 15 of L.N. 75 justifiable under the proportionality test and had not engaged the privilege against self-incrimination and the right to confidential legal advice.</p> <p>Dr CHENG Chung-tai echoed Legal Adviser's enquiry and concern, and had further mentioned that</p>	

¹ Section 7J(6) of Cap. 106 provides that CA shall not exercise its power under section 7J(1) in respect of any office, premises or place in such a way as to disrupt any operations being carried on therein (a) by a licensee or any other person; and (b) any more than is necessary for the proper exercise of that power in all the circumstances of the case.

Time marker	Speaker	Subject(s)	Action required
		<p>SIM card users and other customers of an operator had no avenue for lodging complaints or seeking remedies if the operator had provided more personal information than was required under L.N. 75 to LEAs.</p> <p>The Administration replied that as the scope of the information that CA would inspect was very limited and CA was not empowered to inspect or examine any information found on the premises which was unrelated to the stated purposes, it was of the view that the concerned power was lawful and justifiable under the proportionality test and had not engaged the privilege against self-incrimination and right to confidential legal advice.</p>	
Examination of the provisions of the Telecommunications (Registration of SIM Cards) Regulation (L.N. 75 of 2021)			
013742 – 014023	Chairman Administration	<p><u>Section 1 – Commencement</u> <u>Section 2 – Interpretation</u> <u>Section 3 – Meaning of certain expressions relating to telecommunications service</u> <u>Section 4 – Meaning of eligible person</u> <u>Section 5 – Specified licensee to ensure that SIM card is not active unless currently registered</u> <u>Section 6 – Registration of SIM card for eligible person</u> <u>Section 7 – Maximum number of pre-paid SIM cards for eligible person</u> <u>Section 8 – Deregistration of SIM card on cessation of service</u> <u>Section 9 – Deregistration of SIM card in cases of irregularity</u> <u>Section 10 –Deregistration of SIM card on eligible person's request</u></p> <p>No enquiry from members on these sections.</p>	
014024 – 014624	Chairman Ms Alice MAK Mei-kuen Ms Elizabeth QUAT Assistant Legal Adviser 2 Administration	<p><u>Section 11 – Keeping of SIM card record</u></p> <p>Ms Alice MAK asked the Administration to consider extending the period that telecommunications operators were required to keep records of SIM cards users from 12 months to at least 18 months</p> <p>Ms Elizabeth QUAT made a similar comment.</p>	

Time marker	Speaker	Subject(s)	Action required
		(Post-meeting note: The Administration has addressed Ms Alice MAK's concerns, and she would not pursue the request for the Administration to amend L.N. 75.)	
014625 – 014647	Chairman Administration	<u>Section 12 – Provision of SIM card record to law enforcement officer under warrant</u> <u>Section 13 – Provision of SIM card record to law enforcement officer not under warrant</u> No enquiry from members on these sections.	
014648 – 014728	Chairman Ms Elizabeth QUAT Administration	<u>Section 14 – Guidelines</u> In response to Ms Elizabeth QUAT's enquiry, the Administration replied that the Guidelines formed part of L.N. 75 and that it was mandatory for telecommunications operators to follow them.	
014729 – 014753	Chairman Administration	<u>Section 15 – Inspection</u> <u>Section 16 – Interpretation of Part 6</u> <u>Section 17 – Transitional arrangement – existing SIM cards</u> <u>Section 18 – Transitional arrangement – existing service plan SIM cards</u> <u>Schedule – Specified information of eligible persons</u> No enquiry from members on these sections.	
014754 – 015220	Chairman Mr CHUNG Kwok-pan	The Chairman concluded that the Subcommittee had completed scrutiny of the subsidiary legislation and supported L.N.75 in general. He would report the Subcommittee's deliberation to the House Committee accordingly. Mr CHUNG Kwok-pan asked the Administration to consider amending L.N. 75 to raise the cap for PPS cards registrable for corporates from 25 cards to about 100 cards to facilitate commercial activities. (Post-meeting note: The Administration has addressed Mr CHUNG Kwok-pan's concerns, and he would not pursue the request for the Administration to amend L.N. 75.)	

Time marker	Speaker	Subject(s)	Action required
Agenda item III — Any other business			
015021 – 015252	Chairman Administration	End of meeting	

Council Business Division 1
Legislative Council Secretariat
24 September 2021