

出國報告

(出國類別：考察)

出席 2006 年國際通訊傳播監理人協會 (IIC 2006) 論壇及第 37 屆年會報告

服務機關： 國家通訊傳播委員會 傳播內容處
考察人： 溫簡任技正 俊瑜
派赴國家： 馬來西亞 吉隆坡
出國期間： 民國 95 年 9 月 15 日 ~ 9 月 20 日
報告日期： 民國 95 年 12 月 30 日

摘要

為促進通訊傳播監理業務之國際合作與交流，了解當前最迫切的通訊傳播匯流政策等議題，及提高中華民國台灣在國際上之能見度，追求國際發言空間，爰爭取參與並出席國際通訊傳播監理人協會(IIC 2006) 論壇及第 37 屆年會。

IIC (International Institute of Communications) 為世界各國通訊傳播監理主管機關組成之專屬組織，每年由重要會員國輪流召開論壇及年會一次，討論有關當前最迫切的通訊傳播匯流政策等議題，以促進通訊傳播監理業務之國際合作與交流。本年為第 37 屆，論壇及年會分別於 9 月 16-17 日及 9 月 18-19 日，在馬來西亞首都吉隆坡舉辦，並由馬來西亞通訊傳播多媒體委員會(Malaysian Communications Multimedia Commission, MCMC)協助辦理會務。IIC 除了舉辦國際傳播論壇與年會外，並另外舉辦國際電信傳播論壇與年會。

IIC 成立於 1968 年，為一非營利的民間國際組織，其設立宗旨為提供一個對通訊傳播領域各種議題相互對話及論辯的全球性空間，現有會員約有 40 個國家的通訊傳播業界人士、學者專家及政府官員。雖屬於國際性組織，但目前中國大陸、美國 FCC、英國 Ofcom 等監理機關並未參加，本屆出席的國家有來自：加拿大、愛耳蘭、新加坡、韓國、香港、埃及、德國、西班牙、意大利、匈牙利、澳洲、紐西蘭、南非、斯里蘭卡、坦桑尼亞、波茲瓦納、迦納、馬來西亞等國的 52 個代表參加，我國出席代表則分別為本會傳播內容處溫簡任技正俊瑜及行政院新聞局曾參事一泓。下一屆 (IIC 2007)論壇及年會將分別於 2007 年 10 月 20-21 日及 10 月 22-23 日，在英國首都倫敦舉辦。

本次會議，本會有機會於會中向世界各國宣示我國已於今(95)年 2 月成立本會，負責通訊傳播事業之監理業務，簡報本會運作情形，並提出相關通訊傳播會流之意見，著實難能可貴，未來我國應繼續參與類似國際性會議，並爭取來台舉辦論壇與年會的機會。

目 錄

摘要-----	2
一、前言-----	4
二、考察時間、人員及經費-----	5
三、考察機構及考察目的-----	5
四、出席代表發表演講重點摘要-----	6
五、考察心得-----	22
六、結論-----	23
七、建議-----	24
附錄一：議程-----	25
附錄二：較爲重要之報告原文-----	33

出席 2006 年國際通訊傳播監理人協會(IIC 2006) 論壇及第 37 屆年會報告

一、前言

IIC (International Institute of Communications) 為世界各國通訊傳播監理主管機關組成之專屬組織，每年由重要會員國輪流召開論壇及年會一次，討論有關當前最迫切的通訊傳播匯流政策等議題，以促進通訊傳播監理業務之國際合作與交流。本年為第 37 屆，論壇及年會分別於 9 月 16-17 日及 9 月 18-19 日，在馬來西亞首都吉隆坡舉辦，並由馬來西亞通訊傳播多媒體委員會(Malaysian Communications Multimedia Commission, MCMC)協助辦理會務。IIC 除了舉辦國際傳播論壇與年會外，並另外舉辦國際電信傳播論壇與年會，明年度的電信傳播論壇與年會 IIC 秘書長有意在台灣舉辦，將可能由行政院新聞局及本會合辦。

IIC 除辦理年會及監理者論壇之外，每年另擇期辦理通訊傳播論壇 (the Telecommunications and Media Forum)，對後一論壇，IIC 有意來台舉辦，本局特邀請 IIC 執行長 Mr. Brian Quinn 於吉隆坡會後來台諮商。本人此次赴馬參加論壇及年會，亦擬觀察 IIC 與地主國如何分工協調，以為來日在台舉辦論壇的參考。

IIC 成立於 1968 年，為一非營利的民間國際組織，其設立宗旨為提供一個對通訊傳播領域各種議題相互對話及論辯的全球性空間，現有會員約有 40 個國家的通訊傳播業界人士、學者專家及政府官員。雖屬於國際性組織，但目前美國 FCC、英國 Ofcom 等監理機關並未參加，本屆出席的國家有來自：加拿大、愛耳蘭、新加坡、韓國、香港、埃及、德國、西班牙、意大利、匈牙利、澳洲、紐西蘭、南非、斯里蘭卡、坦桑尼亞、波茲瓦納、迦納、馬來西亞等國的 52 個代表參加，我國出席代表則分別為本會傳播內容處溫簡任技正俊瑜及行政院新聞局曾參事一泓。

下一屆 (IIC 2007)論壇及年會將分別於 2007 年 10 月 20-21 日及 10 月 22-23 日，在英國首都倫敦舉辦。

本會成立前，行政院新聞局已註冊為 IIC 的會員，本會成立後，該局向 IIC 建議邀請本會參與，^{職奉} 派代表出席該會，經向 IIC 聯繫報名時，獲邀於論壇上發表報告，除依照主辦單位規劃之議題發表專題報告 (Mobile and fixed technologies delivering content--Should the same rules apply?) 外，並藉機向世界各國宣示我國已於今(95)年二月成立本會，負責通訊傳播事業之監理，並簡報本會運作情形，獲得韓國、香港、及新加坡代表的關注，甚至於會後進一步要求提供相關參考資料。

本次出席此國際性政府組織會議，認識許多國家主管機關代表 (詳如附件一)，一方面為本會建立國際人脈網絡，另一方面吸收很多國家的經驗與觀念，可作為未來規劃或推動本會施政計畫之參考，對個人而言，也是相當珍貴且難忘的經驗。

二、會議時間、人員及經費

論壇：95年9月16-17日，在馬來西亞通訊傳播多媒體委員會舉行。

年會：95年9月18-19日，在馬來西亞吉隆坡市舉行。

出席人員：1人，本會傳播內容處 溫俊瑜 簡任技正

經費：72,550元（報名費：30,935元、差旅費：41,615元）

三、議程

本次會議主要分成兩部分，第一部分為 IRF 論壇(International Regulators Forum)，第二部分為 IIC 年會(International Institute of Communications Annual Conference)。議程摘要（詳如附件二）與發表報告如下：

(一)論壇

第一部分 IRF 論壇主要由會員主動要求發表，或由 IIC 規劃執行單位視議題需要，邀請會員代表發表演說，共探討七個主題，每個主題都有 1-2 個會員國代表進行專題報告：第一子題探討政府主管部門如何促進產業競爭；第二子題探討藉由投資促進節目產製的法律配套；第三子題探討是否可以用相同的管制方式來管理行動和固定的傳輸內容。第四子題探討數位化時代，政府主管機關對數位內容的智慧財產權與競爭所扮演的角色；第五子題探討下一代網路 (NGN) 相關議題；第六子題探討政府在媒體識讀與媒介自律扮演的角色；第七子題探討自由開放下的頻譜使用。



50 餘個會員代表齊聚於馬來西亞 MCMC 的會議室召開



IIC 2006 論壇結束後，全體與會代表於 MCMC 大樓前合影留念

(二)年會

第二部分為 IIC 年會，較為盛大且正式，所以有邀請 CISCO、產業界等重量級主管人員專題報告，發表演說，共安排**七個主題**：每個主題都有 3-4 個產業界、學界、或政府官方代表進行專題報告。**第一子題**探討 Multispeed Market Dynamics - Charting Diverse Business Landscapes；**第二子題**探討 Promoting Access to Networks, Voice and Services - Meeting a Diversity of Needs；**第三子題**則採分組討論方式，共分成 6 個小組，視個人興趣選擇參與。**第四子題**探討 Communications and Identity: Reconciling borderless content with national culture；**第五子題**探討 Copyright and Digital Rights - Protecting Content without Depriving Consumers；**第六子題**探討 Key Issues Facing Today's Regulators；**第七子題**探討 Casting the Future: Consumer demands, market dynamics and technological possibilities。



IIC 2006 年會 於馬來西亞吉隆坡的 Mandarin Oriental Hotel 國際會議廳舉行

四、出席代表發表演講重點摘要

由於大會並未事先彙整演講者報告內容印製成大會手冊供出席代表於會中參閱，再加上部分主題採分組討論方式同時進行，故有部分分組主題未能參與，茲謹就個人參與及事後蒐集到之報告原文作重點摘要報告，並將較為重要之報告原文作成附錄，供有興趣者查考。

(一) **論壇**：共探討七個主題，分別為：

1. 第一子題：探討政府主管部門如何促進產業競爭 (Sector-specific regulation or competition authorities - which way should industry turn?)

Y K Ha, Deputy Director-General of Telecommunications, Office of the Telecommunications Authority, Hong Kong

Paul Morgan, Director General, Office of Utilities Regulation, Jamaica

第一個發表人由香港電信局副局長夏永權報告政策法規及立法作業所面臨的考驗(**Regulatory Policy and Process--Challenges Ahead for the Regulator**)，夏先生首先提出當前電信與傳播匯流下的立法問題，是否要整合成單一法律或維持個別的兩個法律，其次則是主管機關組織的重整問題和如何促進產業間的競爭。在電信方面，將推動行動與固定通訊的網路互連及號碼可攜，並應重新定義行動通訊與固定通訊業者之權力與義務，且將推動保障老年和貧困者權益之優惠方案。此外，也將積極處理 IP-based 網路，以因應 IPTV 及電腦通信網路之發展。

第二個發表人為愛爾蘭通訊傳播委員會主席 Ms. Isolde Goggin，Goggin 認為專門領域規範或競爭法制的取捨，端視市場的競爭程度；競爭法制適用於開放不具競爭性市場或在已具競爭性市場中維護競爭秩序，最為有效；有些問題不易解決，如行動視訊市場的寡占，經濟效效益不佳等問題，確實很難處理；對一些難解的情況，政府須勉強接受，不然就尋求修法以求解決。



2. 第二子題：探討藉由投資促進節目產製的法律配套 (Future Regulatory role in improving productivity from communications investment)

László Tóth, Director of Strategic Affairs, National Communications Authority, Hungary

Major John Tandoh, Director General, National Communications Authority,

Ghana

匈牙利國家通訊傳播局政策事務處處長 Tóth 探討競爭與投資兩者之相互關係，並簡介及檢討 2002 年歐盟法規架構 (regulatory framework)，說明歐盟立法目標在於促使市場由壟斷轉型為有效競爭，其最有效的方法就是鬆綁法律、促進投資。Toth 表示：促進競爭、引進外資投資是最有效的方法。歐盟市場中業界一半的營業額來自市場新參進者。迄至 2006 年，歐盟已連續三年投資增加，超越美國與亞太地區。凡是有效推動歐盟規章及促進競爭的會員國，都獲得較佳的投資成效。

3. 第三子題：探討是否可以用相同的管制方式來管理行動和固定的傳輸內容(Mobile and fixed technologies delivering content - Should the same rules apply?)

Habbi Gunze, Director Broadcasting Affairs, Tanzania Communications Regulatory Authority (報告者未出席)

Jiun-yu Wen, Deputy Director of Content Management Department, National Communications Commission, Taiwan

本子題第一個發表人應為來自坦桑尼亞通訊管理局傳播事業處的處長報告，因故未出席。事後有提供書面報告，其報告內容認為為廣播電事業使用無線電頻率者，屬於公共財，應負較多的社會責任，講者結論：必須視平台的屬性，而為不同的管制密度。講者強調，面對數位匯流，各國都面臨修法的難題。其論點，與本人的報告大同小異。講者提到 IPTV 屬於正萌芽中的產業，政府應促進其發展，不應將其列入規範。

^職應大會邀請，提出行動及固定網路所傳輸的內容是否應以相同的管制方式來管理？由於另一個坦桑尼亞代表並未出席，因此我有 20 幾分鐘可以使用，我首先用了 10 分鐘，將本會的成立過程、功能及運作情形作簡要的報告，讓本會得以在國際舞臺上曝光，隨後分析我國管制有線及無線媒體及通訊的基本差異，因使用頻率的有無而有不同的管制密度，使用無線頻譜者，受到比較嚴格的規範，例如廣告時間、內容分級、節目自製率及本國節目自製比例等，可是面對數位匯流時代的到來，經過數位壓縮技術，頻譜效率大增，相同的內容時常可以在不同的平台上呈現，無線及行動平台內容，理應可以受到相同的管制密度，不應有差別待遇，但是我國目前也正面臨政策法規的重整，思考用相同管制標準的可能性，將多方參與國際組織，了解國際各國相關管制政策發展方向，並希望各國亦能將相關管制經驗與我國分享。

第一次出席國際性會議作專案報告，由於平日欠缺使用英文交談的機會，加上另一位演講者缺席，本場次的時間也就相對增長，很多提問，包括對本會的運作情形及政黨問題，我用勉強還可以交代清楚的表達方式一一回答，這真是一場嚴峻的考驗。還好，列席的英國牛津大學 Andrea 教授在中午休息時還給我溫暖的鼓勵，安慰我第一次代表出席就有如此表現，勇氣與表現可嘉。



右手邊為英國
牛津大學
Andrea 教授

4. 第四子題：探討數位化時代，政府主管機關對數位內容的智慧財產權與競爭所應扮演的角色(Digitalization of content - Does the regulator have a role to play in issues such as rights and competition?)

Prawin Kumar, Director, Broadcasting Content, Ministry of Information and Broadcasting, India

Dr. Jae-ha Jung, Research Fellow, Research Center, Korean Broadcasting Commission, Korea

第一個發表人為印度傳播內容處長 Mr. Prawin Kumar，Kumar 認為：監理者的努力重點應在於 **1. 合作**。由於通訊傳播的參與者增加，監理者須與各方保持關係，尤其是跨國業者、傳輸網路營運者、IT 系統提供者，以獲取技術面的新知。**2. 頻譜管理**。政府對於頻譜的分配及使用，需增進效率。**3. 內容**。監理者的挑戰來自於逐漸增加的網路線上連結、民營媒體及內容數位化。此外，監理者尚須留意技術中立，網路基礎建設與內容提供應製播分離議題；對於通訊傳播領域的發

展，宜交予市場，監理者則著重頻譜稀有資源分配及維持競爭機制；在數位無線電視方面，政府應增進多元化及提升內容品質；另鼓勵競爭比管制會比較有利於消費者選擇，因而法規應致力於促進內容的競爭，以獲致節目與資訊來源的多元。

第二個發表人為南韓廣電委員會研究員 Dr. Jea-ha Jung，Jung 發表的報告側重智慧財產權，她認為數位內容的保護無疑日趨重要，但也充滿爭議。內容擁有者確信保護機制可促進優質創意作品的產出，質疑者則關切保護措施會抑制消費者的選擇權。在數位內容時代，為促進科技發展，監理機制須重新規劃，應涵蓋科技發展趨勢、普及服務、網路基礎建設、技術與服務匯流等。

5. 第五子題：探討下一代網路(NGN)相關議題 (Next generation networks - what are the issues?)

Paris Mashile, Chairman, Independent Communications Authority of South Africa, South Africa

Roberto Viola, General Director, AGCOM, Italy

第一個報告者由南非通訊傳播委員會主席 Paris Mashile 說明未來行動視訊系統將包括 4G 手機、寬頻無線接取系統、智慧型傳輸系統 (ITS)、高空平台系統 (HAPs) 等；多媒體視訊傳播將告興起，行動無線接取也將成為主要的應用，將超越個人電腦的使用；隨著服務型態增加，消費者的期待也將提高，業界應致力於提供全球行動視訊接取、高品質服務、多媒體服務等預為準備。

6. 第六子題：探討政府在媒體識讀與媒介自律扮演的角色 (Media literacy, communications literacy and self-regulation - what role should the regulator play?)

Ling Pek Ling, Director, Media Policy, Media Development Authority, Singapore

Gernot Schumann, European Affairs Commissioner of the Directors' Conference of the German State Media Authorities/Director, Schleswig-Holstein Regulatory Authority, Germany

第一個報告者由新加坡媒體發展局 (MDA) 媒體政策主任 Ling Pek Ling 說明 MDA 的媒體識讀計畫著重政府法規、業界自律、家長監督及公眾教育三個層面，但業界自律意願低落，仍期待政府制定規章，居主導角色。在家長及公眾方面，MDA 重視政府與公民團體、民眾的合作關係，目前已建構 80 個聯盟，推動媒體識讀計畫。

第二個發表人為德國聯邦媒體局聯合會歐洲事務委員 Gernot Schumann，Schumann 稱，德國法律規定為防阻不當的內容，廣電、多媒體、網際網路等業界

需設置自律組織，並經官方認可，自律組織負責規範所播送的內容。媒體識讀的推動主要為政府的責任，政府的目標是培養民眾有能力蒐尋所需的媒體素材、了解素材內容、具有評斷能力、能及時回應，為此，政府尚須設立研究及訓練機構。德國政府並以補助設立 300 個公民媒體中心，民眾可利用該中心內設施製作自己的節目，送至當地有線或無線電視台播放。

7. 第七子題：探討自由開放下的頻譜使用。(Spectrum and the digital dividend – the regulator’s role in the liberalization of spectrum usage)

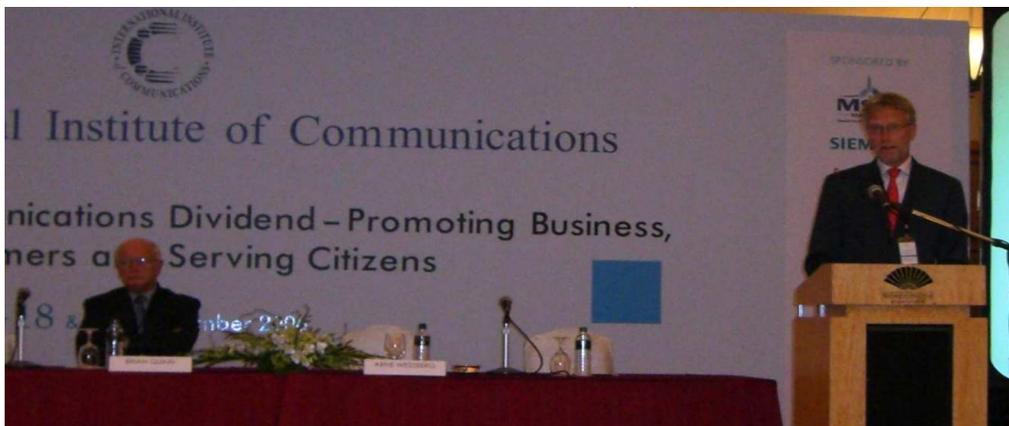
Lyn Maddock, Deputy Chair, Australian Communications and Media Authority, Australia

Toh Swee Hoe, General Manager, Research and Planning Division, Malaysian Communications and Multimedia Commission

第一位報告者為澳洲通訊傳播委員會副主席 Lyn Maddock，Maddock 表示，澳洲有兩種頻譜機制，一種是廣電頻段，另一種是包含 15 年固定期限頻譜執照及公眾免費使用的執照。澳洲政府目前所面臨的挑戰是有必要改變地區性廣電系統，以利於與行動電視或網路電視競爭，但又必須兼顧其區域性服務特性。澳洲的公眾免費使用執照近似別國的無照或免照頻段，無需申請（類似我國開放 ISM 頻段之低功率無線電機），也不需繳費，但電波涵蓋範圍固定，且設置地點及干擾問題須電台自行處理。由於新科技發展，新的終端設備已能自動跳頻、選頻，因此干擾的問題較少了。

第二個發表人為馬來西亞 MCMC 研發部主任 Toh Swee Hoe，Hoe 指出，在馬來西亞，直播衛星應必載無線電視節目，目前有將近 2 百萬個訂戶，約佔 32%；IPTV 也即將進入市場，形成競爭。馬來西亞自 2003 年即開始規劃電視數位化，規格是採用歐規 DVB。數位化將可提供更多節目、提升品質、有利於內容創新、多元服務等。另外，馬來西亞自 2006 年底開始數位化，預計經 8 年完成數位化，於 2015 年收回類比無線電視頻率。

(二) 年會：共安排七個主題，分別是：



Brian Quinn

Arne Wessberg



Robert Pepper

Chair : **Brian Quinn**, Director General, International Institute of Communications

Opening Keynote Address : Arne Wessberg, President, International Institute of Communications; President, European Broadcasting Union

1. **第一子題**：探討 Multispeed Market Dynamics - Charting Diverse Business Landscapes

(1) Chair **Robert Pepper**, Senior Managing Director, Global Advanced Technology Policy, **Cisco Systems**, Inc; formerly Chief of Policy Development, Federal Communications Commission, USA

(2) **Dato' Abdul Wahid Omar**, Group Chief Executive Officer, Telekom Malaysia
Capitalizing on Connectedness: A South and South East Asian perspective

(3) **Manoj Menon**, Partner and Managing Director, South East Asia, Frost & Sullivan The Korean and Wider Asian Experience

(4) **Jean Paul Simon**, Senior Vice President, International Regulatory Strategy, France Télécom, E-ruptive Trends and Changing Business Landscapes

(1) CISCO 的全球尖端科技政策部資深經理 Robert Pepper 發表 ” Competition, Convergence and the Changing Role of the Regulator”

Robert Pepper 分析傳統傳播法規與全球科技及市場匯流趨勢下監理政策的省思：傳統電信以防止壟斷、促進競爭、普及服務、保護消費者權益為主軸；傳統傳播以確保稀有頻譜資源使用者之多元性、保護兒童、提昇文化為重點。而科技匯流下，數位化、寬頻化、行動化，使得頻譜不再稀有，資訊可以隨時隨地獲

得，因此，如何推動寬頻普及與 IP 化服務及鼓勵創新，就顯得格外重要。當無線寬頻與 EoIP (Everything is Over IP) 服務實現時，” scarcity ”、” localism ”、” diversity ” or ” pluralism ” 還有意義嗎？還有，如何去衡量競爭？以市場、內容、或平台佔有率來計算？假如每個人、每件事都要被管理時，市場及政府如何能有效率運作？而消費者權益及文化等傳統課題又應如何保護？

Robert Pepper 建議政府應降低傳統的管制，創造更多競爭機制，加強消費者與智慧財產權的保護與創新，政府只扮演市場與政策的催化劑與促進者。

- (2) 馬來西亞電信總裁 (Telekom Malaysia) Dato' Abdul Wahid Omar 發表 Capitalising on Connectedness--A South and South East Asian Perspective, Omar 分析亞太地區電信事業營業收入的成長動力主要來自行動通訊部門，東南亞國家行動通訊費之營收，預估固定通訊費營收已達飽和，未來行動通訊費總營收將持續大幅成長，也將帶來通訊費率價格大戰。未來行動通訊業者間的關係將是既競爭又合作的關係，在合作關係方面將會有基地站台共構 (Tower sharing)、光纖迴路出租 (Lease of surplus fiber capacity)、閘道器 (International gateway) 與數位內容交換等。馬來西亞 MCMC 決定於 2006 年 12 月 15 日終止預付卡的使用，在 3G 行動通訊方面，馬來西亞已經發出 4 張執照，目前已有 2 家開始商業運轉；在 Wimax 方面，新加坡已經完成開放開始營運，馬來西亞已完成競標作業，印度及印尼尚進行頻譜規劃中，並提出非電信業的 MSN、Skype、Google 等，未來可能對電信業者造成威脅。
- (3) Frost & Sullivan 集團東南亞地區營運處 Manoj Menon 處長發表 Multispeed Market Dynamics--The Korean and Wider Asian Experience。Menon 表示：新的通訊增值服務預測將有智慧型個人隨身裝置、兒童監護裝置、線上隨選電影等，數位家庭、衛星 DMB、行動銀行等將成為新的商品。新科技的動力主要來自於新世代的消費者、新參進的業者及政府部門。
- (4) 法國電信公司法務副總裁 Jean Paul Simon 發表 E-ruptive trends and changing business landscapes，說明數位匯流趨勢下，Search engines、Blog、Podcasting、P2P、EBay、VoIP、Wireless Broadband 等服務，已摧毀原有電信與傳播的界線。未來內容的使用者也可能是內容的供應者 (The user is the supplier)，政府應採取低門檻市場進入限制 (low entry barriers)。數位內容如何接近使用平台、如何促進平台與內容的競爭、智慧財產權的保護及消費者權益的保護，將是監理者的重要課題。



Manoj Menon



Dato' Abdul Wahid Omar



Jean Paul Simon 13

2.第二子題：探討 Promoting Access to Networks, Voice and Services - Meeting a Diversity of Needs ；

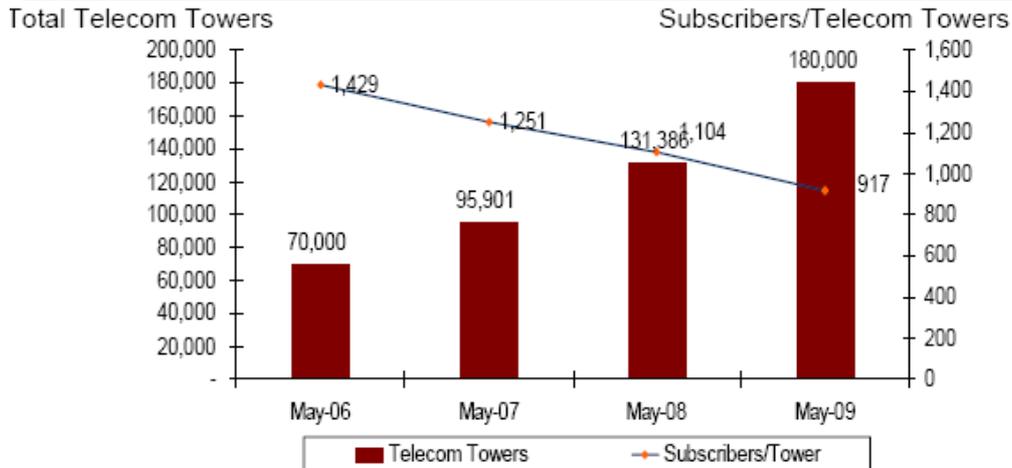
Chair Howard Williams, Professor of Management Science, University of Strathclyde Business School; Consultant, The World Bank:

- (1) Paris Mashile, Chairperson, Independent Communications Authority of South Africa: Technology, Demand and Access in a Developing Communications Environment
- (2) Sigurd Schuster, Senior Vice President, Technology Office, Siemens AG, Communications Group Germany: Can a Mobile-based Strategy Deliver a Full Communications Package?
- (3) Stephen Ho, Managing Director and Head, Communications, Media and Technology Team DBS Bank Ltd, Singapore: Analysing and Responding to Market Needs - Two Emerging Trends in Asian Telecoms

(2) 西門子電信公司技術部的 Sigurd Schuster 資深副總裁發表 Can a Mobile-based Strategy Deliver a Full Communications Package? Sigurd Schuster 說明當前的 IPTV、Mobile TV、Mobile Voice、網路搜尋、遠端看護、行動電郵等豐富的服務型態，都可以提供行動中或工作中的人們方便的服務，過去受限與頻寬只能提供行動語音服務，未來，隨著行動寬頻技術發展，行動寬頻及影音的套裝服務 (Package Service) 需求將是時勢所趨，未來 Fixed Net, Mobile Net, Data Net, Cable TV Net, 都將可以透過網路的整合交換，提供行動寬頻影音服務，形成 Fixed, Mobile, Internet 全部 Bundle 在一起的整合服務。

(3) DBS 公司的 Stephen Ho 發表 Analysing and Responding to Market Needs -Two Emerging Trends in Asia Telecom, Stephen Ho 分析市內電話用戶數呈現遞減、寬頻用戶呈現遞增趨勢；寬頻電信網路與有線電視的付費電視、寬頻與語音電話服務形成競爭，但電信業者在內容的提供服務是處於競爭弱勢。認為未來的電信市場將朝向 4 網整合(audio, video, data and voice services)服務經營。部分業者如香港的 PCCW、新加坡的 StarHub、泰國的 True Corp, 可提供 mobile, fixed line, broadband 和 IPTV 等四網整合服務 (Quad Play services)。基地塔台會因為競爭而數量繼續增加，形成單位鐵塔服務的用戶數減少，但業者會為了縮減成本，必然朝外包或共構鐵塔的方式經營。

Projected Telecom Towers in India by Area



Stephen Ho

Paris Mashile

Howard Williams

Sigurd Schuster

3. **第三子題**：分組討論，同一時間分成 6 個小組在三個會議室進行，故每人可視個人興趣選擇 2 個主題參與。

(1) **第一分組**：探討 Communications markets of the future-the role of spectrum
 獲致的結論為：原有的類比頻道收回後宜善加利用，有的國家擬作為公共安全頻道使用，這些頻段其實亦可考慮供第四代寬頻行動視訊服務之用。另外，頻譜應依區域性、全國性、甚或全球性的不同需求而作整合，WiFi 之所以成功即係它在任何地方皆使用相同頻率。在這個無線的世界，行動視訊裝置普及，消費者要求的是「無所不及」，可以隨心所欲地聯絡遠近各方，業者必須將無線電話推進至行動電話，再推演到行動寬頻。

(2) **第二分組**：探討 Regulator options for market growth, economic development and consumer choice (未參與)

獲致的結論為：從有線電視、付費電視的觀點來看，監理的問題有三：市場進入

設限(例如中國)、費率設限(例如台灣)、智慧財產權問題(例如盜版)，有效解決這些問題，才能吸引更多的外國投資。有線電視已能提供寬頻、網際網路、電視節目，對寬頻的普及貢獻很大。不管是已發展或新興的市場，諸如自由化、安全、競爭等監理議題均獲得重視；監理者應經常交換資訊，吸收成功與失敗的經驗。

(3)第三分組：探討 Borderless media and freedom of speech，

馬來西亞的 Dato' Siti Balkish 說明言論自由是憲法所保障的自由，同時也與公序良俗、宗教和文化有關，無邊界媒體(Borderless media)，自由不應該被濫用。

英國的 Andrea Millwood Hargrave 說表意自由常常和言論自由交換使用，但事實上，前者的意涵比後者更寬廣，傳統的認知仍以有害(harm)和激怒(offence)作為認定的標準。即使是美國的廣播電視也被課予保護國家文化與社會的正面責任。Andrea 同時認為網路經營者應該被賦予濾除不當內容的編輯責任，但大多數國家都傾向應由業者自律管理，提高自我認知能力，除此之外，公平處理、無特別政治立場，也是媒體的重要責任。

Indrajit Banerjee 認為亞洲國家有明顯的政府介入媒體情形，但是近來，印尼、泰國、馬來西亞和越南已有明顯的改善。



第四分組：探討 From ‘the wireless’ to wireless communications - How to achieve broadband and ICT development in rural societies? (略)

第五分組：探討行動電視是否為未來的殺手級應用(Mobile TV - the killer application of the future?)

由 Nokia 亞太地區多媒體事業部處長 Jawahar Kanjilal 擔任主席。澳洲的數位廣播系統開發部經理 Peter 開門見山地說：content on-demand is the new ‘king’，receivers and their technical capabilities are the queen. 他並強調，多采多姿的行動電視將是輔助數位電視事業發展的主流。

香港電信局副局長夏永權則提出政府嚴守技術中立原則，可能造成多種傳輸標準，讓消費者不知所措，行動電視使得整體法制難以定位。MiTV Corporation 的 Dato' Ismail Osman 處長則提出行動電視將成為人們床上看電視、尋求安眠的良方。

馬來西亞 MCMC 內容管理與開發處 Roslan Mohamad 處長提出：行動電視平台提供一對多服務是否與無線電視相同？管制架構定義、跨平台服務的傳輸標準、

頻譜規劃使用、普及服務及不當內容之管理等幾個問題都是管制者所面臨的難題。

本分組經過熱烈討論後，達成行動電視是未來電視的殺手級應用結論，但是何時到來？沒人知道；多種傳輸標準，將成爲消費者裹足不前，不願花錢購買設備的主要原因。



Peter Kepreotes

Dato' Ismail Osman

Roslan Mohamad

Jawahar Kanjilal

Ha Yung-kuen

4. 第四子題：探討 Communications and Identity: Reconciling borderless content with national culture

Chair Arne Wessberg, President, International Institute of Communications, President, European Broadcasting Union

- (1) Daniel R. Fung, SBS, SC, QC, JP, Chairman, Hong Kong Broadcasting Authority, Broadcasting Regulation in a Convergent Environment
- (2) Dr Soetopo Kartosaputro Ishadi, President Director, Trans TV, Indonesia, A Regional Perspective on Media Content
- (3) Dr Antonio Amendola, Senior Policy and Legal Adviser to the Secretary General Italian Communications Authority (AGCOM), A European View
- (4) Kambhampati S Sarma, Formerly Chief Executive Officer, Prasar Bharati Broadcasting Corporation of India, A Broadcaster' s Perspective

- (1)由香港廣電局 Daniel R. Fung 主席探討匯流環境下的廣電法規(Broadcasting Regulation in a Convergent Environment)，Daniel R. Fung 表示，香港廣電局成立於 1987 年，是一個由 12 個委員組成的獨立、合議制的法人組織，其中 3 人是由工業部、商業部及技術部指派人員擔任外，其餘 9 位委員則由社會賢達人士擔任。所據以執行的是 2000 頒布的廣電法，具有彈性、技術中立、競爭、製播分離特色，6 年來尚稱運作良好。現階段的政策主軸是加速新科技發展、獎勵投資及促進傳輸

與內容的市場分離。根據去年的一項研究調查顯示，香港的法制環境，有利於投資與競爭，已經使得付費電視產業推動的相當成功。目前香港有 700 萬人口，44 張電視執照，2 張電視傳輸執照、1 張公共電視執照，提供約 300 個電視頻道，此外，香港並有 13 個廣播頻道。除此之外，香港並不斷引進新技術，例如 PDA、行動電視、iPods，讓廣播電視內容可以在手持式裝置及行動電話上收視、收聽，實現 fixed-line, mobile, video and broadband 四網(quadruple-play)整合服務。

Daniel R. Fung 綜合香港電視的 2 個發展趨勢：首先，數位電視將在 2007 年開播，2008 年涵蓋達 75%。其次，IPTV、行動電視、網路電視、手機電視也將積極推動。目前 Pacific Century CyberWork (PCCW) 已有 60 萬各訂戶，可提供 84 個電視頻道和 4 個 video -on-demand 服務，PCCW 並宣稱年底將提供 HDTV 服務。香港廣電局將網路電視視為免執照，因為其提供的服務方式與目前有線電視或無線電視的方式並不相同，此管制邏輯使得網路電視業者不斷的改善影音品質，提供人們更佳的娛樂消遣服務。這種免執照政策受到電視業者的強烈質疑，香港廣電局審慎的參考美國 Federal Networking Council 對 Internet 的定義：

- (a) it can communicate with other computers on the Internet based on the globally unique IP address;
- (b) it supports the Transmission Control Protocol / Internet Protocol (TCP/IP); and
- (c) it provides high level services layered on its underlying infrastructure.

結果，香港廣電局還是決定網路電視可以免執照。但是，由於網路電視目前可以提供 56 個電視節目，其不當的內容，對兒童及青少年仍然有構成傷害的可能性，未來仍然是必須面對的問題。

最後，Daniel R. Fung 表示，隨著世界各國都將通訊傳播整合成單一主關機關趨勢，香港正思考將廣電局與電信局整併的可能性。

(2) 印尼 Trans 電視公司 Dr Soetopo Kartosaputro Ishadi 總經理報告

Communications and Identity: Reconciling borderless content with national culture--A Regional Perspective on Media Content。Ishadi 總經理報告印尼電視內容的發展，說明印尼存在的文化差異，包含多種族和多宗教團體。印尼大約有 600 種種族和 4 種主要宗教：伊斯蘭教、基督教、佛教、印度教。印尼走過了廣電媒體管制到多元開放，目前已經核准五家民營電視台，使用 10 個頻道，允許外資及外語電視台之經營，印尼政府鼓勵地方電視台之設立，目前印尼有 70 餘個地方性電視台，以地方性語言及文化為節目內容播送。為了避免電視台因外資介入，造成外來節目氾濫，印尼政府要求每個電視台應有一定比例的地方性節目，目前各電視台約有 20-30% 的地方性節目，未來更將採取：收回國營電視頻道轉為公共電視、由地方政府補助地方性電台節目製作、課予公營電視台播送地方性電視節目義務等三項措施，來落實地方性節目製播政策。

(3) 由義大利通訊傳播局 (Italian Communications Authority, AGCOM) 秘書長資深法務長 Antonio Amendola 發表 Communications and Identity: Reconciling

borderless content with national culture 歐洲地區的看法，Amendola 認為在歐盟國家中，約有 100 萬人直接從事影音多媒體工作，Amendola 分析 4 個推動多媒體內容的策略：法制架構(the Regulatory Framework)、支撐機制(support mechanisms)、線上內容與媒體識讀(Content Online and Media Literacy)、世界貿易組織的外部力量(External Measures)，透過歐盟的團體力量，保障歐製節目市場，並規定獨立地方性媒體應保留一定的自製時間比例(至少 10%，不包含新聞或體育節目與廣告內容)，並且應至少有 10%的預算，是供製播地方性節目所需，再者，獨立的電視系統播送的節目內容應為近 5 年內產製者。Amendola 援引歐盟國家 TWF (Television Without Frontiers)於 1999 年簽訂的協議，基於平等互惠原則，促進電視節目內容能夠無國界的播送協定與健全的組織架構，將使得內容與文化無國界，以健全電視節目內容。

- (4) 印度 Prasar Bharati Broadcasting Corporation 的執行長 Kambhampati Sarma 報告：Communications and Identity: Reconciling borderless content with national culture-- A Broadcaster's Perspective。

Kambhampati Sarma 提出以下看法：文化多樣性是社會發展的組成要素，它可以提昇社會凝聚力、國家認同與尊嚴的力量。很多國家的文化是透過公共廣播慢慢地型塑，在型塑過程，最容易受到傷害的就是兒童、文盲和窮人。各國為了因應國際化趨勢，及保護固有文化價值與遺產，均致力於找尋規範的平衡點。然而，傳播內容創作是表意自由的一部分，在當前通訊傳播科技創新時代裡，提供開放、跨國性、無邊界 (Borderless)、共同市場需求的傳播內容時，雖然珍貴且重要，但也不能忽視弱勢族群的權益。



Dr Antonio Amendola

Dr Soetopo Kartosaputro

Arne Wessberg

Kambhampati S Sarma

5. **第五子題**：探討 Copyright and Digital Rights - Protecting Content without Depriving Consumers；

Chair **Fernand Alberto**, Legal Counsel, Asia-Pacific Broadcasting Union

- (1) **Nicholas Chan**, Partner, Squire, Sanders & Dempsey, Hong Kong ,
Getting a Grip on Rights Issues across Countries and Platforms

- (2) **Dr Werner Rumphorst**, Director, Legal Department, European Broadcasting Union, Creating an Enabling Rights Policy for a Digital World
 - (3) **Manisekaran Amasi**, Director of the Copyright Office, Intellectual Property, Ministry of Domestic Trade and Consumer Affairs, Malaysia Corporation, Challenges for Copyright in the Digital Environment
- (略)



Manisekaran Amasi Dr Werner Rumphorst Fernand Alberto Nicholas Chan

6. 第六子題：探討 Key Issues Facing Today's Regulators；

Chair **Dr Ang Peng Hwa**, Associate Professor and Dean of the School of Communication and Information, Nanyang Technological University, Singapore

- (1) **Ha Yung-kuen**, Deputy Director-General of Telecommunications, Office of the Telecommunications Authority, Hong Kong Regulatory, Policy and Process - The Challenges Ahead for the Regulator
 - (2) **Joe Welch**, Senior Vice President, Government Affairs, STAR Group Ltd, Regulation from a Business Perspective
 - (3) **Robert Pepper**, Senior Managing Director, Global Advanced Technology Policy, Cisco Systems, Inc; formerly Chief of Policy Development, Federal Communications Commission, The Changing Role of the Regulator
- (1)由香港電信局副局長夏永權報告政策法規及立法作業所面臨的考驗(**Regulatory Policy and Process--Challenges Ahead for the Regulator**)，夏先生首先提出當前電信與傳播匯流下的立法問題，是否要整合成單一法律或維持個別的兩個法律，其次則是主管機關組織的重整問題和如何促進產業間的競爭。在電信方面，將推動行動與固定通訊的網路互連及號碼可攜，並應重新定義行動通訊與固定通訊業者之權力與義務，且將推動保障老年和貧困者權益之優惠方案。此外，也將積極處理 IP-based 網路，以因應 IPTV 及電腦通信網路之發展。

(2) 星空集團(STAR Group Ltd) 政府事務部門資深副總裁 Joe Welch 發表 Key Issues Facing Today's Regulators; Regulation from a Business Perspective。Joe Welch 援引 CASBAA 衡量政府管制效率的 10 個指標：**No investment limits, Level playing field, No program distribution limits /cartels, No restrictive rate regulation, No constraints on packaging (tiering), No unreasonable restrictions on advertising, No onerous content controls, No program supply restrictions, Real copyright protection, Transparent, independent, efficient regulator**，結論是 1. 政府是否有效管理與這 10 個指標的成長直接相關、2. 政府應該採取好的策略--刺激競爭、提供消費者衝分選擇機會、吸引投資。**Welch 表示**：許多國家的有線電視在寬頻普及上扮演重要的角色，在視訊與音訊服務上亦有良好營運。CASBAA 國際廣電組織近期對監理的有效性所做的研究，結果發現有效的監理與產業的成長發展有直接相關，政府的良好政策應包含促進競爭、增加消費者選擇、引進外資。

(3) CISCO 的全球尖端科技政策部資深經理 Robert Pepper 發表 ” The Changing Role of the Regulator” ， Robert Pepper 分析傳統傳播法規與全球科技及市場匯流趨勢下監理政策的省思：傳統電信以防止壟斷、促進競爭、普及服務、保護消費者權益為主軸；傳統傳播以確保稀有頻譜資源使用者之多元性、保護兒童、提昇文化為重點。而科技匯流下，數位化、寬頻化、行動化，使得頻譜不再稀有，資訊可以隨時隨地獲得，因此，如何推動寬頻普及與 IP 化服務及鼓勵創新，就顯得格外重要。當無線寬頻與 EoIP (Everything is Over IP) 服務實現時，“scarcity” ” localism”、“diversity” or “pluralism” 還有意義嗎？還有，如何去衡量競爭？以市場、內容、或平台佔有率來計算？假如每個人、每件事都要被管理時，市場及政府如何能有效率運作？而消費者權益及文化等傳統課題又應如何保護？

Robert Pepper 建議政府應降低傳統的管制，創造更多競爭機制，加強消費者與智慧財產權的保護與創新，政府只扮演市場與政策的催化劑與促進者。



Joe Welch

Ha Yung-kuen

Dr Ang Peng Hwa

Robert Pepper

7. 第七子題：探討 Casting the Future : Consumer demands, market dynamics and technological possibilities

Chair **Brian Quinn**, Director General, International Institute of Communications

- (1) **Dan E. Khoo**, Vice President, Business Strategy & Transformation, Multimedia Development Corporation, Malaysia

由馬來西亞多媒體發展集團業務副總裁的 **Dan E Khoo** 副總裁探討 Casting the Future : Consumer demands, market dynamics and technological possibilities，提出數位匯流帶來新的競爭、產業合作與商業經營模式。說明過去所強調的 3C 整合，垂直分工的電信、傳播、資訊科技、媒體內容、消費性電子產業，未來將朝向 4 網、數位電影院、高影音內容傳輸、豐富個人化服務、無縫隙延伸服務、行動及固定通訊的水平整合。服務內容也將改變為交易、通信、娛樂訊息為主。

- (2) 西門子電信公司技術部的 Sigurd Schuster 資深副總裁發表 Forecasting the Future: Consumer demands, market dynamics and technological possibilities 報告，Sigurd Schuster 首先質疑：傳統語音電話有未來嗎？答案是否定的。我們很難想像當前沒有電話的生活。在北美有 98% 的家庭擁有電視，50% 的家庭擁有 2 部電視。獲得資訊、消遣娛樂、工作需要、老人或幼兒看護無不需要通信與電視，設備與網路的整合，價格和技術與服務的創新，符合消費者需求，將是市場需求的導向。



Sigurd Schuster

Brian Quinn

Dan E. Khoo

伍、考察心得

本次會議，本會能以中華民國台灣的名義參加，並於會中簡介本會之組織運作情形，提昇中華民國台灣在世界的能見度，實屬難能可貴。

從會議過程，可以了解會員國在通訊傳播發展的重要議題上思考與處理的策

略與方向，確實值得持續參與，但非常可惜的是本會已經貴為行政院的一級機關，但在出席國際會議的出國計畫編列額度未能擺脫過去交通部電信總局時代二級機關的規模，由於參與這個國際組織的會員年費及出席年會報名費合計約新台幣 40 餘萬元，這筆金額將排擠本會出席其他國際會議的額度，幸好行政院新聞局能負擔會費，持續保持本國會員的資格。

藉由出席 IIC 國際傳播論壇與年會，可以與世界各國通訊傳播監理主管機關，討論有關當前最迫切的通訊傳播匯流政策等議題，以促進通訊傳播監理業務之國際合作與交流，有助於了解先進國家通訊傳播政策法規的發展近況，藉由實際的交往與國際合作，對我國通訊傳播產業有正面的意義，另一方面，亦有助於爭取我國國際能見度及發言空間。

本次出席此國際性政府組織會議，認識許多國家主管機關代表，一方面為本會建立國際人脈網絡，另一方面吸收很多國家的經驗與觀念，可作為未來規劃或推動本會施政計畫之參考，對個人而言，也是相當珍貴且難忘的經驗。

六、結論

參與本次論壇會議，由於各國國情不同，所討論的議題也很難有所謂的共同結論；不過年會部分，因探討的主題與演講者與產業界及學界較深，探討的主題也較為廣泛，所以比較有較深的啟示。茲將出席論壇與年會所考察的重點結論臚列如下：

(一) 監理者應採取低度管制，引進競爭機制

就如同 CISCO 的 Robert Pepper 所說的：傳統電信以防止壟斷、促進競爭、普及服務、保護消費者權益為主軸；傳統傳播以確保稀有頻譜資源使用者之多元性、保護兒童、提昇文化為重點。而科技匯流下，數位化、寬頻化、行動化，使得頻譜不再稀有，資訊可以隨時隨地獲得，**當一切都無線寬頻與 EoIP 時**，“scarcity” “localism”、“diversity” or “pluralism” 已經沒有意義了，屆時，如何去衡量競爭及市場、內容、或平台佔有率？很明顯地看出，政府政府很難以再以管制的方式規範市場，只有扮演市場與政策的催化劑與促進者，朝向低度管制一途。

對於新興科技與產業的崛起與跨媒體、跨產業的匯流，也應參考美國與香港等國的作法，採取低度或不予管制方式，特別放任其慢慢發展成形，以立平台間的競爭，並不得有差別待遇地提供內容服務、平台播出，以免傳播內容遭壟斷，以利平台內容與服務的競爭。

二、確立製播分離的政策方向

爲了達到有效競爭，應先就廣電內容與網路平台加以分離，以利內容得以多元流通，避免遭壟斷，此外也應將平台所提供的頻道作有效的開放，以利內容提供者有充分的上架播出機會。

三、數位化、小眾化、行動化、寬頻化、跨媒體服務已是時勢所趨

IPTV、無線寬頻接取服務等在各國已積極推動，其所提供的服務，已經無法再用傳統的思維模式進行管制，政府必須加速法制作業，在法政作業未完成前，亦宜以低度或不予管制之策略，以促進新科技的發展，強化競爭機制。

三、強化媒體自律機制、教育民眾媒體識讀能力

由於政府在匯流時代裡，宜朝向低度管制的方向，傳播內容已經多到政府無法負荷的程度，內容提供者應以團體的力量制約個體的脫序行爲，而公民的監督力量也應予以強化，因此，效法各國將媒體應參予自律組織，並將組織自律機制報經主關機關核備的法制應該推動，此外並應是培養民眾有能力蒐尋所需的媒體素材、了解素材內容、具有評斷能力、能及時回應。

七、建議

- (一)鑑於我國在爭取國際能見度及發言空間常常受到中國大陸的打壓，目前中國大陸尚未加入 IIC，我國行政院新聞局早於 2003 年即加入會員，旅途中，該局曾一泓參事基於通訊傳播監理業務既已由本會負責，建議該會員改由本會承接。本會如應允接替其會員資格，將需編列會員年費約 NT 32 萬元，出席會議報名費約 NT35,000 元，建議爭取行政院的支持，或繼續循今年模式，由該局擔任會員，本會派員會同出席，不宜中斷參予國際組織的機會。
- (二)本次會議 IIC 願意主動邀請本會報告，確實機會難得，根據觀察，本會在通訊及傳播領域之專業與智能，尙勝出大部分 IIC 會員國，有蠻大爭取表達機會與空間，建議未來除應繼續爭取發言權與出席報告外，並宜提高層級，由委員率一名同仁參與爲佳。



INTERNATIONAL REGULATORS FORUM

16 & 17 September 2006 MCMC, Kuala Lumpur

Saturday 16 September 2006

09:45 Registration and Coffee

10:00 Opening remarks by Datuk Dr Halim Shafie, Chairman, Malaysian Communications and Multimedia Commission, and Chairman, Day 1, 2006 IIC International Regulators Forum

10:15 Session 1: Sector-specific regulation or competition authorities – which way should industry turn?

Y K Ha, Deputy Director-General of Telecommunications, Office of the Telecommunications Authority, Hong Kong

Paul Morgan, Director General, Office of Utilities Regulation, Jamaica

11.15 Break

11:30 Session 2: Future Regulatory role in improving productivity from communications investment

László Tóth, Director of Strategic Affairs, National Communications Authority, Hungary

Major John Tandoh, Director General, National Communications Authority, Ghana

12:30 Lunch

13:30 Session 3: Mobile and fixed technologies delivering content – Should the same rules apply?

Habbi Gunze, Director Broadcasting Affairs, Tanzania Communications Regulatory Authority

Jiun-yu Wen, Deputy Director of Content Management Department, National Communications Commission, Taiwan, Republic of China

14:30 Break

14:45 Session 4: Digitalisation of content – Does the regulator have a role to play in issues such as rights and competition?

Prawin Kumar, Director, Broadcasting Content, Ministry of Information and Broadcasting, India

Dr. Jae-ha Jung, Research Fellow, Research Center, Korean Broadcasting Commission,
Korea

16:00 Closing remarks

18.30 Dinner Kindly Hosted by Malaysian Communications and Multimedia Commission

Sunday 17th September

09:45 Opening remarks by Isolde Goggin, Chairperson, Commission for Communications
Regulation, Ireland and Chairman, Day 2, International Regulators Forum

10:00 Session 5: Next generation networks – what are the issues?

Paris Mashile, Chairman, Independent Communications Authority of South Africa, South
Africa

Roberto Viola, General Director, AGCOM, Italy

11:00 Break

11:15 Session 6: Media literacy, communications literacy and self-regulation – what role should the
regulator play?

Ling Pek Ling, Director, Media Policy, Media Development Authority, Singapore

Gernot Schumann, European Affairs Commissioner of the Directors` Conference of the
German State Media Authorities/Director, Schleswig-Holstein Regulatory Authority,
Germany

12:15 Lunch

13:30 Session 7: Spectrum and the digital dividend – the regulator`s role in the liberalization of
spectrum usage

Lyn Maddock, Deputy Chair, Australian Communications and Media Authority, Australia

Toh Swee Hoe, General Manager, Research and Planning Division, Malaysian
Communications and Multimedia Commission

14:30 Break

14:45 Summary and closing remarks

International Institute of Communications 37TH Annual Conference

MONDAY 18 SEPTEMBER 2006

Chair Brian Quinn

Director General, International Institute of Communications

09:15 Welcome and Opening Remarks

09:20 Opening Keynote Address

Arne Wessberg

President, International Institute of Communications; President, European Broadcasting Union

Session One

Multispeed Market Dynamics - Charting Diverse Business Landscapes

- New dimensions of connectedness – what is the experience of communications and content providers? Is the consumer really empowered by greater choice?
- Incumbents and challengers: defining areas of competition and complementarity
- Are there valid generalisations about emerging business models and what makes for success?

09:35 Chair Robert Pepper

Senior Managing Director, Global Advanced Technology Policy, Cisco Systems, Inc; formerly Chief of Policy Development, Federal Communications Commission, USA

09:40 Keynote Address

Capitalizing on Connectedness: A South and South East Asian perspective

Dato' Abdul Wahid Omar

Group Chief Executive Officer, Telekom Malaysia

10:10 The Korean and Wider Asian Experience

Manoj Menon

Partner and Managing Director, South East Asia, Frost & Sullivan

10:25 E-ruptive Trends and Changing Business Landscapes

Jean Paul Simon

Senior Vice President, International Regulatory Strategy, France Télécom

10:40 Discussion

11:10 Refreshments

Session Two

Promoting Access to Networks, Voice and Services - Meeting a Diversity of Needs

- In areas lacking access how far will the market go? Where it fails, how to intervene?
- in what way does the roll-out of voice services inhibit the development of broadband services? To what extent can investments in mobile networks be transformed at relatively low cost into broadband networks?
- Can neutral networks be an agreed basis for mass communications needs?

11:40 Chair Howard Williams

Professor of Management Science, University of Strathclyde Business School; Consultant, The World Bank

11:45 Technology, Demand and Access in a Developing Communications Environment

Paris Mashile

Chairperson, Independent Communications Authority of South Africa

12:00 Can a Mobile-based Strategy Deliver a Full Communications Package?

Sigurd Schuster

Senior Vice President, Technology Office, Siemens AG, Communications Group Germany

12:15 Analysing and Responding to Market Needs – Two Emerging Trends in Asian Telecoms

Stephen Ho

Managing Director and Head, Communications, Media and Technology Team

DBS Bank Ltd, Singapore

12:30 Discussion

13:00 Lunch hosted by the Ministry of Energy, Water and Communications, Malaysia

Session Three

Breakout Groups

There will be three breakout rooms. Each breakout will last an hour and a quarter, thereby giving delegates the chance to attend two.

14:00 1. Communications markets of the future – the role of spectrum

- How to achieve optimal and efficient use of spectrum? Should spectrum be charged for? If so, under what circumstances and how should the valuation be made?
- Providing for new and potentially new wireless services as well as for current ones
- With the ‘digital dividend’, should there be trade-offs between deployment of HDTV and recovered spectrum? Should some spectrum be reserved for specific applications? The international dimension – how best to harmonise spectrum arrangements with neighbouring countries?

Chair Isolde Goggin

Chairperson, Commission for Communications Regulation
Republic of Ireland

Expert speakers: Major John Tandoh

Director General, National Communications Authority, Ghana

Bharat Bhatia

Regional Director, India, SAARC, Singapore, Thailand and

Malaysia, Government Relations Organisation, Motorola

Dato’ Ismail Osman

Director, MiTV Corporation

2.Regulator options for market growth, economic development and consumer choice

What can be learnt from various approaches to stimulating competition in established markets?
(incumbents or state-owned entities, LLU, foreign ownership etc)

How to evaluate regulatory effectiveness? How different are the criteria in developed and emerging markets? Do the two types of markets have any regulatory lessons for each other?

Chair Dato’ V. Danabalan

Former Chairman, Malaysian Communications and Multimedia Commission

Expert speakers: Joe Welch

Senior Vice President, Government Affairs, STAR Group Ltd

Alasdair Grant

Director, Regulatory Affairs, Asia Pacific, Verizon Business; President, Asia Pacific Carriers

Coalition

László Tóth

Director of Strategic Affairs, National Communications Authority, Hungary

3. Borderless media and freedom of speech

- What role, if any, should the communications sector play in reconciling the right to freedom of speech with political or religious sensitivities or the public interest?
- Can communications technology (DRM for example) provide effective tools for censorship or does borderless communications support free movement of ideas and expression?
- What lessons can be learnt from the Danish cartoon incident for government policy makers, regulators and the communications sector?

Chair Julie Eisenberg

President, Australian Chapter, International Institute of Communications; former Head of Policy,

Special Broadcasting Service Australia

Expert speakers: Dato' Siti Balkish Shariff

Secretary General, Ministry of Information, Malaysia

Andrea Millwood Hargrave

Association for Television on-Demand (ATVOD); Associate, Programme in Comparative Media Law & Policy, Oxford University

Prattana Nuntaratpun

Head, International News Department, MCOT Plc, Thailand

Dr Indrajit Banerjee

Secretary General, Asia Media Information and Communication Centre – AMIC; Associate

Professor, School of Communication and Information, Nanyang Technological University, Singapore

15:15 Refreshments

15:45 4. From 'the wireless' to wireless communications - How to achieve broadband and ICT development in rural societies?

- What are the mechanisms and drivers of ICT growth in rural areas?
- Telecommunications access in rural areas – requirements and relevant technologies
- How should ICT developments be paid for? What are the most effective financial mechanisms to stimulate ICT in these areas?
- How do mobile networks move to the delivery of broadband in rural areas?

Chair Badlisham Ghazali

Chief Executive Officer, Multimedia Development Corporation, Malaysia

Expert speakers: Paul Inglesby

Chief Technical Officer Support, Standards Coordination and Innovation, Telkom SA

Dr Nikolai Dobberstein

Head of Products and New Businesses

Maxis Communications Berhad

Emanuela Lecchi

Partner, Head of EU & Competition Group

Charles Russell LLP

5. Mobile TV – the killer application of the future?

- Content development issues – what will work on this platform?
- Key factors in a successful business model
- Challenges for regulators – regulatory risks for commercial players?

Chair Jawahar Kanjilal

Director, Multimedia Experiences, Asia Pacific, Nokia

Expert speakers: Peter Kepreotes

Business Development Manager, Digital Broadcast Systems Broadcast Australia

Ha Yung-kuen

Deputy Director-General of Telecommunications

Office of the Telecommunications Authority, Hong Kong

Dato' Ismail Osman

Director, MiTV Corporation

Roslan Mohamad

Head of Content Regulation and Development Department

Malaysian Communications & Multimedia Commission

6. Internet governance: content regulation

- Is the internet governance issue one of improving access for all while limiting access to some sites?
- New forms of internet governance and cultural diversity
- Initiatives by industry and others to develop international regulatory mechanisms, including self regulation
- Does the EU Television without Frontiers directive provide any kind of model for other regions?

Chair Dr Andrew Taussig

Trustee & Board Member, Voice of the Listener and Viewer, UK; former Director, Foreign Language Services, BBC World Service

Expert speakers: Fethi Nedjari

CEO, Xeopex Productions Cie, France; Board Member, IIC International Association of Young Communications Professionals; Director, IFF-kids Project

Dr Antonio Amendola

Senior Policy and Legal Adviser to the Secretary General

Italian Communications Authority (AGCOM)

Dr Bernard Tan

Professor of Physics, National University of Singapore; Chairman, National Internet Advisory Committee, Singapore

17:00 End of Day One

19:00 Gala Dinner

Sponsored by the Multimedia Development Corporation (MDeC), Malaysia

TUESDAY 19 SEPTEMBER 2006

Chair Arne Wessberg

President, International Institute of Communications, President, European Broadcasting Union

09:00 Opening Remarks from the Chair

09:05 Keynote Address

Broadcasting Regulation in a Convergent Environment

Daniel R. Fung, SBS, SC, QC, JP

Chairman, Hong Kong Broadcasting Authority

Session Four

Communications and Identity: Reconciling borderless content with national culture

- Does borderless communications imply cultural homogeneity?
- National heritage and content: what needs defending and does this require a public service approach?
- Is cultural diversity (and the UNESCO Convention) consistent with a free trade regime?

Chair Arne Wessberg

09:35 Keynote Address

A Regional Perspective on Media Content

Dr Soetopo Kartosaputro Ishadi

President Director, Trans TV, Indonesia

09:55 A European View

Dr Antonio Amendola

Senior Policy and Legal Adviser to the Secretary General
Italian Communications Authority (AGCOM)
10:10 A Broadcaster's Perspective
Kambhampati S Sarma
Formerly Chief Executive Officer, Prasar Bharati Broadcasting Corporation of India
10:25 Discussion
10:50 Refreshments

Session Five

Copyright and Digital Rights – Protecting Content without Depriving Consumers

- International recognition of rights - what should the rules of the game be in Asia? What will the impact be of the proposed WIPO treaty on broadcasting?
- Must traditional content providers adjust their rights policies to embrace new consumer behaviour, especially that of the younger generation?
- What are the implications for business models of the uncertainties and complexities inherent in the many-to-many environment?

11:10 Chair Fernand
Legal Counsel, Asia-Pacific

Alberto
Broadcasting Union
Rights Issues across Countries and
Nicholas Chan

11:15 Getting a Grip on
Platforms

Partner, Squire, Sanders &

Dempsey, Hong Kong
Rights Policy for a Digital World
Director, Legal Department,
Union

11:30 Creating an Enabling

Dr Werner Rumphorst

European Broadcasting

11:45 Challenges for
Environment

Copyright in the Digital
Manisekaran Amasi

Director of the Copyright Office, Intellectual Property Corporation

Ministry of Domestic Trade and Consumer Affairs, Malaysia

12:00 Discussion

12:30 Lunch hosted by the Ministry of Information Malaysia

Session Six

Key Issues Facing Today's Regulators

- What should be the regulatory approach to converged services? How and why may it vary from country to country?
- Using regulation to fashion a market – resolving tensions between driving infrastructure development and fostering innovation and competition
- What determines whether co-regulation and self-regulation are effective?
- Across the whole range of issues what can regulators learn from each other?

13:30 Chair Dr Ang Peng Hwa

Associate Professor and Dean of the School of Communication and Information, Nanyang Technological University, Singapore

13:35 Regulatory Policy and Process - The Challenges Ahead for the Regulator

Ha Yung-kuen

Deputy Director-General of Telecommunications

Office of the Telecommunications Authority, Hong Kong

13:50 Regulation from a Business Perspective

Joe Welch

Senior Vice President, Government Affairs, STAR Group Ltd

14:05 The Changing Role of the Regulator

Robert Pepper

Senior Managing Director, Global Advanced Technology Policy, Cisco Systems, Inc; formerly Chief of Policy Development, Federal Communications Commission

14:20 Innovation and Competition: Trade-off or squeeze for a new regulatory framework?

Romano Righetti

Director, Regulatory and Institutional Affairs, Wind Telecomunicazioni

14:25 Discussion

Session Seven

Casting the Future : Consumer demands, market dynamics and technological possibilities

Chair Brian Quinn

Director General, International Institute of Communications

15:00 Dan E. Khoo

Vice President, Business Strategy & Transformation

Multimedia Development Corporation, Malaysia

15:15 Sigurd Schuster

Senior Vice President, Technology Office, Siemens AG, Communications Group Germany

15:30 Discussion

16:00 Concluding remarks, refreshments and end of conference

附錄二：較為重要之報告原文

Breakout Group I - Communications markets of the future-the role of spectrum

CHAIR: ISOLDE GOGGIN (COMMISSION FOR COMMUNICATIONS REGULATION, REPUBLIC OF IRELAND).

EXPERT SPEAKERS: BHARAT BHATIA, (REGIONAL DIRECTOR, INDIA SAARC, SINGAPORE, THAILAND AND MALAYSIA, GOVERNMENT RELATIONS ORGANISATION, MOTOROLA) AND DATO' ISMAIL OSMAN (DIRECTOR, MITV CORPORATION, MALAYSIA)

TOPICS AND QUESTIONS FOR DISCUSSION AS PROPOSED BY THE CHAIR

IS SPECTRUM A SCARCE RESOURCE? IS IT BEING USED IN THE MOST OPTIMUM AND EFFICIENT WAY? HOW SHOULD PRICING OF SPECTRUM BE EVALUATED? IS THERE SUFFICIENT ACCESS TO SPECTRUM? HOW SHOULD THE SPECTRUM DIVIDEND BE CALCULATED? SHOULD THERE BE AGREEMENT BETWEEN NEIGHBOURING COUNTRIES ABOUT THE ALLOCATION OF SPECTRUM FOR BROADCASTS/WIRELESS TELECOMMUNICATIONS? SHOULD THESE QUESTIONS BE WEIGHTED AGAINST THE CONSUMER NEEDS?

1ST EXPERT SPEAKER: BHARAT BHATIA

BHARAT BHATIA STATED THAT SPECTRUM WAS A MOST IMPORTANT RESOURCE NOWADAYS IN VIEW OF THE GROWTH IN THE TELECOMMUNICATIONS INDUSTRY. HE QUERIED WHETHER SPECTRUM WAS REALLY SCARCE, OR WHETHER IT WAS BEING MANAGED EFFECTIVELY. IN THIS SENSE THE ROLE OF THE NEW SERVICES OFFERED BY THE TELECOMMUNICATIONS MARKET HAVE TO BE EVALUATED.

MR BHATIA RAISED THE QUESTION OF DIGITAL DIVIDENDS AND HOW THEY SHOULD BE EVALUATED. SHOULD THEY BE VIEWED SIMPLY AS AN OPPORTUNITY FOR GOVERNMENTS TO RAISE REVENUE, OR MADE AVAILABILITY TO ALL SECTORS OF THE POPULATION FOR THE BETTERMENT OF MANKIND, THROUGH APPLICATIONS SUCH AS BETTER EDUCATION, OR ENTERTAINMENT? RELATED QUESTIONS WOULD BE WHETHER EXISTING SPECTRUM WAS UTILISED TO THE MAXIMUM, AND WHETHER SPECIFIC SPECTRUM SHOULD BE ALLOCATED FOR BROADCASTING AND MOBILE SERVICES. DIFFERENT COUNTRIES HAD ALLOCATED DIFFERENT USES FOR THEIR SPECTRUM ALLOCATIONS. IN THE USA FOR EXAMPLE, SPECTRUM FORMERLY USED FOR ANALOGUE BROADCASTING HAD BEEN RE-DEPLOYED BY THE GOVERNMENT FOR THE PROVISION OF SAFETY SERVICES. OTHER POSSIBLE APPLICATIONS WERE NEW TECHNOLOGICAL APPLICATIONS SUCH AS FOURTH-GENERATION BROADBAND MOBILE SERVICES, SINCE IT WAS MUCH CHEAPER TO ROLL OUT SERVICES IN THESE BANDS THAN AT HIGHER

FREQUENCIES.

Lastly, Mr Bhatia pointed out that national harmonization of spectrum use was not sufficient; for the digital dividend to be useful there must be harmonization regionally and globally, preferably so that a single common band could be released. The World Radiocommunications Conference (WRC) efforts could be useful in this area. WiFi had been successful because it used the same frequency bands everywhere. Public safety spectrum was also harmonised. For WiMAX the critical bands to be harmonised were 2.5GHz and 3.5GHz, but the first was shared with broadcasting and the second with satellite television downlinks.

CONCLUSION: SPECTRUM IS SCARCE, WHAT WE MUST DO IS TO UTILIZE WHAT WE HAVE EFFICIENTLY; HARMONIZATION OF SPECTRUM COULD ASSIST IN THIS.

2ND EXPERT SPEAKER: DATO' ISMAIL

DATO' ISMAIL OPENED HIS SPEECH WITH THE PROPOSITION THAT, ALTHOUGH THE CLICHÉ HELD THAT SPECTRUM WAS A SCARCE COMMODITY, THIS WAS NOT NECESSARILY ACCURATE. SPECTRUM WAS A NATURAL RESOURCE AND WAS FREELY AVAILABLE TO ALL, BUT MODERN TECHNIQUES SUCH AS SPREAD SPECTRUM ALLOWED IT TO BE SHARED BETWEEN MULTIPLE USERS. HOWEVER HE AGREED WITH THE FIRST SPEAKER IN THE SENSE THAT THE ALLOCATION OF SPECTRUM COULD BE MANAGED AND THEREFORE UTILISED MORE EFFICIENTLY. IN TODAY'S WIRELESS WORLD, WITH WIDESPREAD ADOPTION OF MOBILES, PEOPLE WANTED UBIQUITY - THE ABILITY TO CONNECT ANYWHERE. 2G PHONES, 3G PHONES AND WiFi GAVE THIS ABILITY, AS COMMUNICATIONS HAD EVOLVED FROM CORDLESS PHONES TO CELLULAR PHONES TO MOBILE BROADBAND.

CONCLUSION: THE SPEAKER FURTHER DREW AN ANALOGY BETWEEN THE VALUE OF SPECTRUM AND THE VALUE OF REAL ESTATE. A PIECE OF LAND CAN BE IGNORED FOR A LONG TIME, AND THEN SUDDENLY BECOME PRIZED. DUE CONSIDERATION AND REGARDS SHOULD BE PAID TO ITS PROPER UTILIZATION, AND THERE MUST BE POTENTIAL FOR THE PIECE OF LAND TO BENEFIT EVERYBODY. SIMILARLY WITH SPECTRUM ALLOCATION, IN RELATION TO WHETHER SPECTRUM SHOULD BE PRICED, THIS COULD BE TESTED OUT BUT WITH CARE TAKEN NOT TO DISADVANTAGE END-USERS, AS THE DANGER WAS THAT ANY CHARGES WOULD SIMPLY BE PASSED ON TO THE CONSUMER. THERE WAS A NEED TO BALANCE THE NEEDS OF DIFFERENT PARTIES. IN RELATION TO THE DIGITAL DIVIDEND, ACCOUNT HAD TO BE TAKEN OF THE GROWTH PATH OF THE BROADCASTERS WHO MIGHT WANT TO PROVIDE NEW SERVICES OVER THE SPECTRUM. IN THE REGION THERE WAS NO INTERNATIONAL DIVIDEND, BECAUSE THERE WAS AS YET NO PLAN ON THE INTERNATIONAL SCALE.

Comments from the Floor

Delegate from South Africa: whose dividend are we talking about here? Are we talking about the spectrum dividend in terms of country, region, or consumer? The distinction has become blurred. Planning in Europe and Africa is ongoing. We have to consider existing services, what are the

demands of these services and then move on to set a road map for the future. We have to always bear in mind that we have gone from single wire telephones to wireless mobile telephones, wired internet services to wireless internet services, what would be the next step in technological advancement? With the convergence of the broadcasting and communications industry, we will have to think of what other services the broadcasters would want to offer in the future as well. The dividend should be carefully thought out and the various stakeholders' views should be dealt with/addressed.

SHOULD THERE BE A GLOBAL CONSENSUS OR SHOULD THESE QUESTIONS BE DEALT WITH AT A NATIONAL LEVEL? THE WRC AND ITU COULD ASSIST IN THIS ANALYSIS, THESE GLOBAL ORGANIZATIONS HAVE BEEN MEETING EVERY FEW YEARS TO ALLOCATE SPECTRUM TO VARIOUS COUNTRIES/REGIONS. THIS SHOULD BE CONTINUED. THE HARMONISATION OF SPECTRUM ALLOCATION ON A GLOBAL LEVEL IS NECESSARY. NOT ONLY ALLOCATION FOR USE, BUT ALSO THE ALLOCATION MUST CONSIDER THE PEOPLE MOST IN NEED OF ACCESS TO TELECOMMUNICATION/WIRELESS TECHNOLOGIES. HIGH MOBILITY WITH HIGHER DATA RANGE SHOULD BE ENCOURAGED. IN CONCLUSION SPECTRUM IS NOT SCARCE IN REALITY BUT SCARCE IN USE. IT IS A NATURAL RESOURCE THAT CAN BE UTILISED TO THE MAXIMUM IF MANAGED EFFICIENTLY.

DELEGATE FROM THE ASIAN BROADCASTERS UNION- AMOUNT OF SPECTRUM ALLOCATED DIFFERS - RANGES FROM 28MHZ TO 49MHZ - BUT THIS IS NOT SACROSANCT.

DELEGATE FROM FINLAND- FINLAND IS MOVING TOWARDS FULL DIGITALIZATION IN LESS THAN A YEAR, BUT STILL THERE IS A QUESTION AS TO HOW THE SPECTRUM/DIGITAL DIVIDEND IS TO BE CALCULATED, SHOULD IT BE CALCULATED IN TERMS OF ECONOMIC VALUE OR SOCIAL VALUE? THESE QUESTIONS HAVE NOT BEEN ADEQUATELY ADDRESSED AT GLOBAL LEVEL.

DELEGATE FROM MALAYSIA- THE MOVE TOWARDS DIGITALIZATION SEEMS TO BE MORE POLITICALLY MOTIVATED THAN TECHNOLOGICALLY MOTIVATED. THERE ARE NOW MORE THAN 3 DIGITAL BROADCAST SYSTEMS IN MALAYSIA. SPECTRUM SHOULD BE ALLOCATED MORE ON A SOCIAL BASIS THAN A COMMERCIAL BASIS. MALAYSIA WILL ONLY BE GOING DIGITAL IN TOTALITY IN 2007 (NOT SURE THOUGH) THE REASON FOR THE DELAY IS UNCERTAIN. WITH THE GROWING CONVERGENCE BETWEEN THE BROADCASTING AND TELECOMMUNICATIONS INDUSTRY, THE NATURAL RESOURCE, (SPECTRUM) AND CONSUMER DEMAND WILL HAVE TO COMPETE AGAINST THE COMMERCIAL MARKET.

Delegate from Australia-

Liked the analogy between allocation of spectrum and real estate development. There were practical limits to what spectrum could be used for what - for example, the optimal band for mobile broadcasting was the UHF band. In Europe, the planning process for RRC 06 had not included mobile television as there had not been time to include this in the "plan". Also highlighted that in the

future optimization of spectrum may not be a problem as there is compression technology available. The question would be where to from here? What is the navigation plan? Uncertain.

Delegate from Singapore - Andrew Haire

THE ISSUE OF SPECTRUM ALLOCATION/DIVIDEND IS AN OVERLAY OF TECHNOLOGICAL, ECONOMIC AND SOCIAL PROBLEM. ANALOGY WITH REAL ESTATE EXCELLENT, IN THIS RESPECT SINGAPORE IS A GOOD EXAMPLE TO LOOK AT. MAXIMUM OPTIMUM USE OF LIMITED RESOURCE, LAND, SAME ATTITUDE TO ALLOCATION OF SPECTRUM. THERE HAS TO BE EFFICIENT USE OF THE RESOURCE COUPLED WITH GLOBAL AND LOCAL CO-ORDINATION. THERE HAS TO BE PROPER REGULATION AND PRICING, AND ALL STAKEHOLDERS MUST TRY TO SORT THINGS OUT AMICABLY, NOT BY UNTOWARD INTERFERENCE.

Delegate from India – Mr Bhatia

THE CURRENCY FOR CALCULATING THE DIVIDEND MUST BE ECONOMIC IN NATURE. SOCIAL BEHAVIOR OF PEOPLE HAS CHANGED, WITH THE INTRODUCTION OF BLOGS, INTERNET CHAT ROOMS ETC. THERE HAS TO BEEN SOME SORT OF INTERNET DE-REGULATION AS WELL; THIS HAS TO BE TAKEN INTO ACCOUNT.

Delegate from Singapore

THE DIVIDEND SHOULD BE CONSIDERED, NOT JUST IN COMMERCIAL TERMS, BUT IN THE SOCIAL CONTEXT. HOW CAN THE VALUE OF PUBLIC BROADCASTING ORGANIZATIONS BE DETERMINED? EACH PUBLIC SECTOR BROADCASTER HAS A DIFFERENT MODEL, INCLUDING FUNDING - FOR EXAMPLE, IN COUNTRIES SUCH AS FINLAND ADVERTISEMENTS ARE BANNED ON PUBLIC BROADCASTING CHANNELS, ADVERTISING REVENUES ARE CAPPED IN UK AND IRELAND, WHILE OTHER PUBLIC SECTOR BROADCASTERS HAVE FEWER RESTRICTIONS. IN A NUTSHELL, EFFICIENT USE OF SPECTRUM MEANS DIFFERENT THINGS TO DIFFERENT PEOPLE. NOW AN ADDED PROBLEM-CONVERGENCE, HOW CAN THIS BE SOLVED. STAKEHOLDERS, SHOULD FOCUS ON THESE ISSUES, THE SOCIAL SHOULD BE SEPARATED FROM THE COMMERCIAL BENEFITS.

Delegate from South Africa

BROADCASTING DIVIDED INTO COMMERCIAL, PUBLIC AND COMMUNITY AND IS MANDATED BY THE GOVERNMENT TO ENSURE THAT EVERY HOUSEHOLD BENEFITS WHILST AT THE SAME TIME PRESERVING SOUTH AFRICA'S CULTURAL IDENTITY. HARMONIZATION ON A GLOBAL LEVEL WAS NECESSARY. THE SOUTH AFRICAN DELEGATE WAS QUITE HAPPY WITH WRC'S , PERFORMANCE AT THE MOMENT IN THIS REGARD.

CONCLUSION BREAKOUT GROUP I: TO GAIN THE MAXIMUM BENEFIT FROM THE DIGITAL DIVIDEND, WHATEVER APPLICATIONS IT IS USED FOR, REQUIRES HARMONISATION, WHICH IMPLIES A WRC

SPECIFIC SOLUTION, THIS MAY BE SLOW BUT THE LONG-TERM BENEFITS MAY BE MANY. SPECTRUM ALLOCATION MUST BE EFFICIENT, ALLOCATED ONLY WHERE IT CAN BE USED. DIRECT GOVERNMENT ACTION MAY BE NECESSARY.

COMMUNICATIONS MARKETS OF THE FUTURE AND THE ROLE OF SPECTRUM IS TOO WIDE AN AREA TO BE CONSIDERED, IN DETAIL IN THIS BREAKOUT GROUP ALONE, THERE IS A POSSIBILITY OF OPENING UP THE AREA OF DISCUSSION AT OTHER IIC FORUMS. THIS IS JUST THE BEGINNING.

RAPPORTEUR: CIRAMI DRAHAMAN (ADVOCATE & SOLICITOR)

RASLAN LOONG -ADVOCATES & SOLICITORS

KUALA LUMPUR, MALAYSIA.

Breakout Group 2 Regulator options for market growth, economic development and consumer choice

Chair: Dato' V. Danabalan

Expert Speakers: Joe Welch, Alasdair Grant, László Tóth

The session dealt with a range of regulatory issues in emerging and developed markets. The key ideas and views of the experts were as follows:

- Developed markets by definition have a better spread of infrastructure and tele-density and view competition as a main driver. Laws and agencies are created for this purpose.
- In building a national regulatory framework, by and large, the regulators need to focus on three areas—security, foreign investments and consumer protection.
- Competition attracts investments and delivers better benefits to consumers.
- Regulatory effectiveness is a measure of transparency and industry inclusion in decision making.
- From studies made in EU, the finding is that the key to successful liberalization is building a sound and dynamic regulatory framework.
- The current changes in EU are focused on building a flexible approach to spectrum management, less but more effective regulation, harmonization of best practices and consolidation of the European market.
- The prevailing view in Europe is that competition drives investment.

- From the PayTV/cable business perspective, the regulatory issues for industry generally fall into three categories—market entry barrier as in China, rate regulation as in Taiwan, and intellectual property related problems such as theft or piracy. Addressing these effectively, will attract more foreign investments.
- Cable can make a great contribution to a country's overall broadband penetration and enable triple play services (broad band, internet and TV), citing the examples of Power Cable, and BSkyB in United Kingdom.

During question time, panel members agreed that governments have a bigger role than commercial stations if they wish to promote their respective countries through local content. They also agreed that it would benefit the region if there is a better alignment of regional policies aimed at promoting foreign investments.

The discussions acknowledged that (a) although implementation timescales were different, similar trends were emerging in developed and emerging markets with regard to regulatory issues such as liberalization, security and competition and (b) regulators would benefit greatly if they exchanged information and learnt from the success and failures of other countries.

Breakout Group 3 Borderless media and freedom of speech

Chair: Julie Eisenberg, President, Australian Chapter, International Institute of Communications; former Head of Policy, Special Broadcasting Service Australia

Expert speakers: Dato' Siti Balkish Shariff (Secretary General, Ministry of Information, Malaysia) Andrea Millwood Hargrave (Association for Television on-Demand (ATVOD); Associate, Programme in Comparative Media Law & Policy, Oxford University) Dr Indrajit Banerjee (Secretary General, Asia Media Information and Communication Centre – AMIC; Associate Professor, School of Communication and Information, Nanyang Technological University, Singapore)

Dato' Siti Balkish explained that the Malaysian perspective was based on Article 10 of the Malaysian constitution which guarantees freedom of expression – but that is not absolute. It is subject to issues including security, public order and morality. Sensitivities of religion and cultures are to be taken into account. The objective is to avoid conflict and instability within Malaysia.

Borderless media mean that public opinion is inevitably influenced by cross border sources. The Government is encouraging increased literacy. But it is concerned that some people use the internet

for unhelpful or mischievously investigative purposes. At the same time, they recognize that information flow is important for effective international engagements.

The public has a right to know what the Government is doing for them. It is also seen as necessary for the Government to monitor information to ensure it is distortion-free. This was considered to be in line with international charters and world practice. In a multi-religious society there was an expectation of greater tolerance.

The Danish cartoons incident was regarded as an abuse of freedom of expression and betrayal of tolerance – matters relating to religion must be handled carefully. Western and non-Western approaches differ. Freedom was not absolute, said Dato' Siti Balkish, and it was important to address the question whether a publication had a desirable effect.

Andrea Millwood Hargrave noted the significance of definitions – freedom of expression is often used interchangeably with freedom of speech, but the former is broader in meaning as it includes seeking, receiving and imparting information, regardless of the medium of communication.

Andrea agreed the right to freedom of expression was not absolute. Traditionally taste and decency were the canons against which offence was committed; but increasingly “harm” and “offence” were considered more useful concepts against which to evaluate the case for regulatory intervention - the precise issue being when offence reached the point of being harmful.

Liberty was earned and underpinned by deep social values. The U.S. First Amendment brought with it mixed blessings – attempts to legislate for child protection recently having been thrown out by the courts. There was a need for the media to be cognizant of national sensibilities. The role of public broadcasters, in serving national culture and society, was noted as a positive force.

Andrea also noted implications of the European e-commerce directive; ISPs function as mere conduits unless they assume the editorial responsibility to filter out content. Some “technology era” measures were in place, such as age verification for mobile telephony. Additionally there were issues about media literacy. Industry itself has provided some self-regulatory mechanisms and offered awareness-raising initiatives.

Andrea further discussed the role of language – the potential offensiveness of terminology – and described attempts in the UK (post 11 September 2001) to bring Muslim organizations together with the media to work out appropriate language. She observed that the Danish cartoons of the Prophet had attracted widespread coverage but cartoons about the Holocaust had not. Media responsibility did need to be even-handed.

Indrajit Banerjee considered that the Danish cartoons, and the publicity surrounding them, represented the eruption of long- deeply-embedded tensions. In Asia there has been a strong tradition of government control over the media.; in parallel Asian nations have been vilified, especially from outside, for excessive control of the media.

In recent years, however, outside observers have modified their critique as the balance of power has swung away from control towards information freedom, in Indonesia most spectacularly, but also in Thailand, Malaysia and Vietnam.

India always had a strong presupposition towards freedom of expression: a trend now being followed to some extent in Pakistan and Bangladesh. Nevertheless conservative forces in India were anxious about the impact of modern telephony and a multiplicity of media platforms in generating apparently unlimited freedom of expression. Debate on these key issues was stimulated by the aftermath of the events of 9/11.

Andrea added there needed to be more reciprocal learning and inter-personal engagement, with awareness of mutual sensibilities.

Indrajit Banerjee said there was no going back on freedom of expression – the issue was freedom for whom or what. If large corporations control the media landscape, which freedom prevails?

More broadly the discussion now turned to debate the criteria and the authority according to which freedom of expression should be exercised. A comparative international analysis had to take into account that in both Malaysia and Singapore some of the legitimacy benchmarks had been, for historical reasons, imported from Britain. In recent years the regulatory framework has been complicated by the challenge of new technology bringing with it intensified cross-border information flows.

Andrew Taussig suggested the counterpoint of minorities and majorities as a benchmark of editorial decision-making. Some societies emphasized consensus and this value was reflected in the decision-making of their public service broadcasters[PSBs]. Other societies chose to emphasize diversity, alternative views and the rights of minorities – whether racial, religious or aficionados of particular programme genres. He mentioned the BBC's decision to proceed with broadcast of "Jerry Springer – The Opera" despite vigorous protests by Christian groups about desecration of the Christian faith; the BBC defended its decision in terms of the timing of the broadcast, the due warning given, and the quality of the lyrics, music and overall production. On the other hand a series called "Popetown" satirizing the Roman Catholic church had been taken off the air because it caused offence without evincing production quality.

In a wide-ranging discussion participants from Italy and South Africa, amongst others, pointed to the

difficulty of developing agreed editorial benchmarks: between one group and another, between one culture and another, between individual rights and society's needs. Broadcasting decisions, it was felt, could not be held hostage to the views of particular pressure groups.

Rapporteur Julie Eisenberg
President, Australian Chapter, International Institute of Communications; former
Head of Policy, Special Broadcasting Service Australia

From the wireless to wireless communications How to achieve broadband and ICT development in rural societies?

From 'the wireless' to wireless communications – How to achieve broadband and ICT development in rural societies?

Chair: Badlisham Ghazali

Expert Speakers: Paul Inglesby, Dr Nikolai Dobberstein and Emanuela Lecchi

Discussion in this session dealt mainly with the issues of financing the development of broadband and ICT services in rural communities, and sustainability of services.

Providing the South African regulators' experience in addressing the issues, Paul Inglesby explained the country's model of investing enticing investors with an opportunity to capture a larger percentage of an under-served market by giving controlled number of licenses and putting in place the necessary infrastructures, thereby helping to shoulder investors' start-up costs. Such an approach can be a model for replication in other areas in South Africa or even other countries.

Dr. Nikolai Dobberstein opined that it is hard for a government to close the digital divide unless it provides businesses with interests or incentives to address the issue, as a service may not survive unless there are businesses to sustain it. According to Dr. Dobberstein, the government needs to put business applications into its approach. One possible solution to the two issues is to move away from a fragmented business model to a more focused model led by one or two large players, since models for any broadband or ICT service cannot be run successfully by small operators.

Emanuela Lecchi raised the need to include rural societies' input in determining what sort of access or services they need and to develop the business model from there. In addition, she suggested that perhaps the best approach is to collect verifiable models of success and use them as best practice for other similar contexts.

technical capabilities are the queen. He also described the results of research trialling mobile TV in Australia and the UK. This showed the versatility of mobile TV, as expected, but also the fact that mobile TV was not just complementary to mainstream television, but ancillary.

Ha Yung-kuen also spoke of the problems created by multiple transmission standards. He argued that technical neutrality was a regulatory concept but may not be a consumer reality. He pointed out that in Hong Kong, where he is based, mobile TV suppliers use spectrum that has already been given to them for telecommunications. Broadcasting regulation has no place in the overall regulatory framework, at least for now. This may need to be addressed.

Dato' Ismail Osman, the true sceptic in the group, wondered how fast mobile TV would take off and how successful it would be. He wondered about the use of content and whether long-form programming would be watched, or whether people would snack on mobile TV. He was sure that watching mobile TV in bed – as described in the research – would replace counting sheep as an antidote to insomnia! He too, questioned whether the technical infrastructure was in place for a successful roll-out of mobile TV.

Roslan Mohamad, also a regulator but from the content side, raised questions of definition. How could the regulator decide if a delivery platform should be a 'mobile TV platform'? Broadcasting offered one to many transmissions of equal technical and picture quality. Is the same true for wireless TV? There were four issues for the regulator to address:

1. The need to define the framework before regulating.
2. The issue of multiple transmission standards – interoperability is a possible problem.
3. The use of spectrum, driven by multiple transmission standards which can take up and waste spectrum.
4. Issues of content regulation such as universal coverage as well as negative content regulation.

Each of these issues were discussed and questioned within this session. While he agreed that mobile TV would be the killer application, he could not say when that would happen.

In summary the greatest obstacles to the development of mobile TV were seen to be multiple transmission standards that may hold back consumer purchase, and the attractiveness of content – where would it come from, would it be viewed, for how long – and who pays? Despite these obstacles, the question mark did become, for most, an exclamation mark.

Rapporteur: Andrea Millwood Hargrave

Association for Television on-Demand (ATVOD); Associate, Programme in
Comparative Media Law and Policy, Oxford University

Broadcasting Development in Indonesia :
A Regional Perspective on Media Content.¹

When television was first officially introduced and legitimated by President Soekarno on August 24, 1962 its main objectives were.: 1) to unite Indonesia from Sabang to Merauke; 2) to develop the nation's rich cultural heritage.

Similar nuance inspired many other developing countries to implement their own television and radio system. Cultural differences in these developing countries became an important issue since it contains **latent threat** which might stimulate conflicts and disintegration.

Elements of cultural differences in more detail includes race diversity (most apparent in Asia: Chinese, Malayan, and Indian) and a wide-range of ethnic groups. **Indonesia alone has around 600 tribes and four major religions: Islam (majority), Christian (Catholic, Protestant, Advent), Buddhist, and Hindu.**

In such a magnificent cultural mosaic, Indonesia is fortunate to be integrated by its national language – Bahasa (Malayan Language) up to this very day.

The role of television and radio as national unification media and cultural foundation grew stronger when **TVRI (1962) began to operate as sole governmental television with permission to air programs from Jakarta to all over Indonesia.**

Palapa Satellite which was launched in 1976 made it possible for TVRI to evenly relay programs across country. Satellite technology instantly united all Indonesian nations through television and radio, but at the same time caused foreign broadcast spill over from neighboring and international channels, such as MTV, CNN, CNBC, Fox TV, BBC, and Phoenix TV.

In 1998, the Indonesian Government granted licenses to **5 private television stations: RCTI, SCTV, TPI, Indosiar, and ANTV.** As market driven business entities, all stations designed audience oriented programs to grasp as many viewers as possible. Foreign products, particularly Hollywood pictures, proved to be well-accepted. Chinese movies based in Hong Kong and Indian movies based

¹ Dr. Ishadi S.K. Keynote Address: "A Regional Perspective on Media Content: Case Study in Indonesia" during Seminar "Reaping the Communications Dividend – Promoting Business, Empowering Consumers, and Serving Citizens" held by the International Institute of Communications - 37th Annual Conference in Kuala Lumpur, 18-19 September 2006.

in Mumbai. **Around 60-70% television programs at that time originated from abroad.** Local programs on the other hand were limited to soap operas, music, and variety shows. Cultural programs nearly died on screen since it gained low audience share and rating. Most of those programmes were just additional midnight shows and aired only during weekends.

After Reformation (1998), the Government granted licenses to five other television stations, bringing a total of ten legal private national television stations. Hence a tight head-to-head competition among these stations rose to surface, resulting two categories of television programs: 1) Foreign main stream programs, among others Western serial dramas (Friends, Beverly Hills 9010, Melrose Place, Dawson Creek, Sex and The City, Golden Girls, Desperate Housewife), Latin soap operas (Maria Mercedes, Paulina, Esmeralda), Indian movies (Kutch Kutch Hota Hai, Mohabbatein), Chinese movies (Meteor Garden, Return of the Condor Heroes), and special events like the Academy Award and World Music Award; 2) Local main stream programs: most serial dramas adapted from India, Thailand, and Korea.

Subsequently, “me-too” programs populated most television slots, meaning that when a station was considered obtaining massive success from particular shows, other stations would follow by creating similar shows. In the end all television stations aired nearly exact foreign and local main stream programs, causing homogeneous media content. Audience share and rating became the ultimate measurement on how successful a station implemented its business. Finally, all programmers were bound to use the same reference (share and rating) to create new programs that are estimated would attract a larger number of viewers which in turn supported this homogenization process to continue.

Early this year, however, a slight change occurred. Since prices of imported and local dramas sky rocketed, documentary pictures in form of small scale place-to-place reportage similar to Discovery Channel and National Geographic programs were as alternative extensively produced. Talk shows and comedies – primarily aired in the morning, day, and afternoon – also received a greater broadcasting portion. And even though local cultural shows still take position as a minor part of the Indonesian television industry, they at least gained more time on screen. As a result, documentaries, talk shows, and local comedies now occupy 20-30% of all television slots.

Indeed the latest breakthrough emerged since Broadcasting Act No. 32 of 2002 was enacted i.e. local television. Through this act, the Government encourages local televisions to be established. There are at least 70 local televisions existing in Indonesia. Some survive by simply airing local contents, local language, and local culture. Others need to collaborate with multi national televisions like MTV, Nickelodeon, or Voice of America to make them survive amidst very tough competition.

Anyhow what ever action is taken to develop local diversity in Indonesian television,

business consideration and market oriented stations makes it hard to avoid global penetration from strong foreign capitalized broadcasting organizations with wide range of networking. Eventually there is an urgent need of political commitment to secure clear policy directions toward a more local-aimed-media content in order to counter global cultural penetration from foreign distributors – mainly from Hollywood and Mexico – or blocking time and share buying of various national and local stations by multinational companies that urge to gain access to national and local television networks.

Honorable Seminar Participants,

Looking forward to the future, from my point of view in the end there are three ways to solve the problems mentioned above: First, reposition TVRI that once functioned as sole national government owned television into public television to provide alternative programs and air varied local cultures and shows; Second, develop local televisions, if necessary subsidized by local governments; Third, obligate existing national television to broadcast shows with local cultural nuance.

Without a doubt I believe these three ways offers the most reasonable solutions for Indonesian broadcasting situation today since it is simply impossible now to limit international channels in spreading their programs considering the fact that digital technology supports them to reach viewers directly at home.

Jakarta, 12 September 2006

Ishadi S.K.

Keynote Address by Mr Daniel R Fung, SBS, SC, QC, JP
Chairman, Hong Kong Broadcasting Authority

Broadcasting Regulation in a Convergent Environment

Ladies & Gentlemen, Good Morning.

2. Thank you for inviting me here to share with you the Hong Kong experience in broadcasting regulation in a convergent environment. I note that we have among our audience a full spectrum of international experts from regulatory agencies, the industry as well as academia. I feel greatly honoured to have the opportunity to share our perspective and exchange ideas with such a

distinguished assembly.

3. First, a few salient facts concerning the broadcasting regulatory regime in Hong Kong. Hong Kong's broadcasting regime is established by statute. The Broadcasting Authority is an independent statutory body established in 1987 for the regulation of the broadcasting industry in Hong Kong. There are a total of 12 members on the Authority. Except three prominent civil servants including the Permanent Secretary of Commerce, Industry and Technology occupying *ex officio* the position of Vice Chairman, nine of them are appointed from all walks of the community.

4. The regulation of the broadcasting industry falls mainly under the Broadcasting Ordinance. Enacted in July 2000, it was heralded as a timely response to the technological advance at the time to provide a flexible, technology-neutral, business-friendly and pro-competition regulatory regime, which provides for separate licensing frameworks for respectively 'carriers' and 'service providers'. Six years since the Ordinance's enactment, the actual implementation of the legislation has proven that the new approach has allowed Hong Kong broadcasters the flexibility to choose whatever form of transmission that is technologically feasible and financially viable. Our aim is to foster the deployment of new technologies, promote investment, and encourage the emergence of separate markets for the operation of transmission networks and the provision of broadcasting services.

5. To a large extent, the legislation achieved those policy objectives. According to a study conducted last year on the Effective Regulation of the Pay Television in Asia Pacific by CASBAA, the Cable and Satellite Broadcasting Association of Asia, Hong Kong together with Japan came out on top in the Asia Pacific region in terms of regulatory effectiveness. Our regulatory environment has succeeded in boosting competition, investment and revenue generation in the pay television industry.

6. In a city with a population fast approaching 7 million, Hong Kong has a thriving broadcasting industry. There are a total of 44 television programme service licensees, two sound broadcasting licensees and one public broadcaster. In sum, the domestic free, domestic pay and non-domestic television programme service licensees together provide over 300 television channels, while the sound broadcasting licensees and the public broadcaster together provide 13 radio channels.

7. Notwithstanding these encouraging developments, there is no room for complacency. Because technological development runs fast and can often outpace regulatory regime, we need to be ever vigilant. With continuous innovation in communications technology, the landscape of the broadcasting market will keep evolving. The convergence of broadcasting and telecommunications is no longer at our threshold, but inside and outside the household, indeed everywhere. We are now able to watch conventional TV programmes through a variety of terminals, like PCs, PDAs, mobile phones and video iPods in addition to TV sets. Along with the technological development is change in the business model of the industry. Today, it is not only technologically feasible for a provider of a telephony service, a broadcasting service, or an Internet service to provide any form or combination of ‘quadruple-play’ service, i.e. fixed-line, mobile, video and broadband, on the converged digital platform through wire-line or wireless networks to a wide range of markets, but the service is also available commercially from a number of industry players in Hong Kong.

8. While these new services mean more choices for our viewers, the challenges posed by growing convergence to communications regulators worldwide cannot be underestimated. In the context of Hong Kong’s environment, I would like to highlight two major development trends.

9. First, Digital Terrestrial Television (DTT) broadcasting in Hong Kong will commence in 2007. According to the implementation framework promulgated by our Government, DTT is scheduled to reach 75% coverage in 2008. With the rollout of the DTT network, the TV broadcasters will not only broaden their programming variety but can also expand their business from TV

broadcasting to other innovative and multimedia services, including but not limited to, high definition TV and multi-channel TV services, as well as the provision of datacasting services. As different kinds of services including free TV programmes, pay audio-visual content and interactive advertisements can be delivered on a single DTT network, the challenge to the regulator is that it will need to critically review its regulation on programmes and advertising to accommodate and facilitate innovative content and advertising modes delivered on this new service platform.

10. Second, new television transmission modes like mobile TV and TV-over-the-Internet are emerging. In addition to 3G, mobile TV technologies enable the broadcasters to transmit TV services via the mobile phones or other handheld devices in a cost-effective manner. Currently in Hong Kong, a local telephone company is conducting technical trials of mobile TV. The high penetration of high capacity broadband network has also put Hong Kong on the forefront of Internet Protocol (IP) TV technology in the world. For example, Pacific Century CyberWork (PCCW)'s Now Broadband TV, now one of the world leaders in IPTV, has successfully upgraded its public switched telephone network with ADSL (Asymmetrical Digital Subscriber Line) and IP multicast technologies. Launched in September 2003, now Broadband TV has built up a subscription base of over 600,000 subscribers providing a total of 84 channels and 4 video-on-demand services. PCCW has announced that it will launch high definition TV broadcasting services before the end of this year.

11. Although PCCW's service is provided on a closed proprietary network, Internet TV poses a challenge to traditional regulatory philosophy which calls for a paradigm shift in regulatory thinking. When our Broadcasting Ordinance was enacted in 2000, our Government considered that video services provided on the Internet should be exempted from licensing because their mode of operation was different from broadcasting and their pervasiveness was not yet comparable to television broadcasting services. This dichotomy has given rise to concern as the improved quality and speed of video transmission over the Internet made possible by broadband of a bandwidth wider

than ever before would be in a position to pitch the Internet against television as a form of entertainment.

12. This issue became crystallized when a complaint was lodged with our Broadcasting Authority alleging that a TV service available over its broadband network by a broadband operator was not provided on the Internet but rather on a private, closed, proprietary network and hence should be licensed as a broadcasting service. After careful consideration of expert advice, the Authority considered that the service in question complied with the criteria for determining whether a service is provided on the Internet, according to the US Federal Networking Council's definition of the Internet in that:

- (a) it can communicate with other computers on the Internet based on the globally unique IP address;
- (b) it supports the Transmission Control Protocol / Internet Protocol (TCP/IP); and
- (c) it provides high level services layered on its underlying infrastructure.

The Authority concluded that no broadcasting licence was required for the TV services in question.

13. Although the service cannot be regulated under the Broadcasting Ordinance, it does not necessarily follow that such service requires no regulation at all, given the universal concern over such issues as the protection of children from being exposed to harmful content. After all, this internet TV service is currently providing a total of 56 TV channels, with most of them providing a round-the-clock TV programming service. Indeed, the case highlighted the pressing need to address the phenomenon of regulatory asymmetry arising from the innovative television transmission modes and consider whether TV-like services for mobile reception or delivery on the Internet requires some form of regulation where they have an impact on the audience, particularly children and young people,

in the same way as conventional television services are doing and how such regulation can be effectively enforced.

14. Convergence takes place at multi-levels. Apart from the technical and service provision levels, on the regulatory level, some countries have recently moved towards the single regulator model of the US Federal Communications Commission and the Canadian Radio-television and Telecommunications Commission by merging the broadcasting and telecommunications regulator into a single body. At the end of 2002, the UK Government merged five regulatory bodies into a single entity known as the Office of Communications. In July 2005, the Australian Government merged the Australian Communications Authority and the Australian Broadcasting Authority to form the Australian Communications and Media Authority. In Hong Kong, our Government is currently undertaking a public consultation on a proposed merger of the regulation of broadcasting and telecommunications. The establishment of a single, unified regulator is a timely response to ensure that the regulatory regime and institutional framework will remain conducive to the development of new services, encouraging innovation and entrepreneurship and, at the same time, safeguard the public interest.

15. The communications market, as we can see, is becoming converged, mobile and more complex at an unprecedented rate. The challenges presented by a converging communications industry to the regulator are enormous. The regulator will need to re-examine its regulatory approach to ensure that there is sufficient flexibility for the development of innovative services and for the market to operate efficiently. In this process, it is important for us in Hong Kong to learn from the experience of regulators on comparable jurisdictions so that we may seek to turn these challenges into opportunities for the broadcasting industry as well as for the broader community to whom we owe a public trust.

INTERNATIONAL REGULATORS' FORUM – KUALA LUMPUR – 16 – 17 Sept.'06

- **BACKGROUND PAPER— PRAWIN KUMAR, DIRECTOR, BROADCASTING CONTENT,**
- **MINISTRY OF INFORMATION & BROADCASTING , GOVT. OF INDIA**
- **1st session—16th Sept.----Digitalisation of Content**

"Thus the most important assets of nations are not raw materials, physical goods or economic production, but human resources keyed into the information and knowledge revolution." ~ Wright,

2000

The catalyst for change and empowerment is information and knowledge. Access to relevant information helps people identify and seize opportunities to develop and better their lives. Access to information facilitates participation in society, in the economy, in government, and in the development process. The ability to share information on a level playing field helps overcome barriers to communication and encourages exchange and collaboration.

The need for regulatory cooperation locally and internationally, between market players, law enforcement and national security agencies and regulators is being driven by global connectivity, convergence and globalisation. Working against such cooperation are national interest and self interest, as well as differences in culture and values. Where there is cooperation, the achievement of seamless connectivity in communications networks is possible.

One significant challenge will be to transform regulation to operate within a broader internationalised and interdependent environment. **Critical challenges for government, industry and users** also include the need to:

- understand all parts of the convergent communications industry;
- be flexible and responsive; and

- build regulatory coherence and cooperation between jurisdictions, industry bodies and communities of interest to promote equitable participation, network integrity, interoperability, and e-government and e-commerce frameworks.

In particular, understanding the emerging communications environment involves:

- evaluating emerging areas of societal risk in terms of self-responsibility relative to government intervention
- dealing with different cultures and values
- forming relationships with new entrants to the communication sector
- learning new skills and abilities, and
- analysing problems using a ‘systems thinking’ approach rather than just examining particular elements in isolation.

Important areas of focus :

- Cooperation—the number of players in communications is increasing. Regulators will need to develop new relationships with global vendors, new network operators and IT systems providers to build and maintain sufficient expertise over the technical aspects of network regulation.
- Radiofrequency spectrum management—with the growing reliance on and importance of the radiofrequency spectrum, governments will need to improve the efficiency of spectrum allocation and use.
- Content—new challenges are emerging with the increase in online connectivity, private media and open distribution models, and digitalisation of content.

Asia-Pacific region is home to half the world’s 6,800 languages. However, only about 20 percent of Asia-Pacific communicates in English, and the Internet and other carriers of knowledge and information predominantly feature English. Information and Communication Technologies (ICTs) can only be effectively used to achieve development goals if the content is relevant to and understood by users.

An endeavour should be made to promote the creation, sharing and application of good practices, lessons learned, tools and techniques on different aspects of ICT for development, and support local content development in different media that is relevant to the cultures and languages of targeted

communities.

The biggest issue confronting the Indian television industry is its inability to upgrade distribution infrastructure. According to a FICCI-PricewaterhouseCoopers study, the future of the television industry is in digitalisation. "Resolution of current challenges of distribution and digitalisation will also define the content formats and viewership patterns of consumers in future," it says.

Content issues

The horizontal level also includes the possible implications of convergence at the content layer. Types of content that, formerly, were dedicated for specific sectors can be conveyed on different infrastructures because of the common digital form. This presents new possibilities for end users and new industrial potentials for producers, but it also presents regulatory problems that have to be approached. One of the problems is related to the provisions for public service in the broadcast area. Should such provisions be extended to the Internet web, or should convergence on the content level lead to an abolition of public service rules? Another issue relates to the extended access to different kinds of illegal or harmful information, for instance racist propaganda, which the Internet facilitates. What are the possibilities of countries to retain control of this? Yet another problem is related to the provisions for media responsibility that exist today for print and broadcast media but do not apply to Internet.

Digitalization of content is one of the major drivers of convergence. In the digital world, the same content can be transmitted across different networks, and different services can be offered based on the same content. The synergy achieved goes far beyond the electronic communication forms and includes among others the printing press.

Broadcasting

For terrestrial broadcasting, equipment production and service production have in general been two

separate activities. However, distribution and content production is highly integrated. In satellite and cable there is some vertical integration between content, distribution as well as equipment production. The basic distribution by cable or satellite maybe separated from content production, but most broadcasters act both as gatekeepers and producers of content although they also buy content from others.

Content <-> Distribution

Integration of content and distribution is also seen in other sectors. Many telecom operators are producing still more content for their networks. This is somehow just a continuation of the end-to-end philosophy that has dominated the telecom sector, but digitalization and convergence with other media have drastically increased the market opportunities for delivery of various sorts of content via the telecom network.

Reuters is an example of a content provider that has expanded its operation downwards to distribution and equipment production. Reuters has expanded its activities in IT service consultancy and has recently formed an alliance with the network computer maker **Sun Microsystems**.

Different regulatory scenarios

(As raised by Anders Henten, Morten Falch & Reza Tadayoni, LIRNE.NET

Center for Tele-Information (CTI), Technical University of Denmark)

Three issues merit attention:

- Technology neutral infrastructure regulation
- Cross-sectoral content regulation

- The possibility of separating infrastructure and content regulations

Though the presentation of the three dimensions seems to indicate that they can be inter-related in a three-dimensional model, this is not really possible. The individual dimensions are not clearly one-dimensional and there is some cross-linking between some of the points in the different dimensions. They, however, present a universe in which a number of possible scenarios for regulations and regulatory institutions can be described. Far from all possible combinations are presented here – only the most important ones.

1. Leave developments in the communications and media fields to the market, to an as large degree as possible. This entails limiting regulations to a distribution of scarce resources and a general competition regulation of a certain character.
2. For many countries this will be a status quo scenario – the different communications and media fields are regulated separately, and telecoms, for instance, is subject to a traditional regulation of scarce resources, interconnection, and universal services.
3. Greater interdependency between the regulations of the communications and media infrastructures, however, technology still ‘matters’ and there are some differences in the regulations of the different infrastructures, e.g. with respect to the analysis of significant market power in the different areas.
4. Technology neutral regulation across the different infrastructural platforms, with an explicit goal of creating a dynamic environment for the growth of a converging industry and to promote the growth of certain industrial developments. However, infrastructure and content regulations are kept apart.

5. Infrastructure and content regulation are merged with cross-sectoral regulations in both the infrastructural and content layers. In this scenario, there is also an emphasis on developing a dynamic industrial development in the converging communications and media fields.

ICTs cannot be effectively leveraged without content that is responsive to user needs and local conditions, in a language that is commonly understood, and with technical specifications that are sensitive to the actual use and working environment of users. Partnerships between community networks and the private sector are key in this area.

The Regulator should make effective use of its regulatory powers in order to promote plurality, diversity and quality amongst free-to-air analogue terrestrial TV channels. For pay TV, there is now an opportunity to let commercial competition do much of the work which has had to be done in the past by the regulator. This is because there is enough spectrum (across the terrestrial, cable and satellite platforms) to allow vigorous competition in the supply of programming. Vigorous competition in supply may not of itself ensure plurality, diversity or quality within any one delivery platform. But it will provide an excellent starting point; and insofar as plurality, diversity and quality within digital terrestrial TV remains a government priority. In a digital world there will be less and less distinction between television, telecommunications and interactive services

It is also already clear that as we move into a world where consumers can make more individual choices about the programmes they watch or services they take:

- (a) A player who is dominant in the supply of premium programming content, in particular sports and movie rights (which experience has shown consumers are particularly concerned to receive and willing to pay for), is in a very strong position; and

(b) If that player also owns or controls some or all of the transmission networks for digital services, this dominance may be reinforced.

It is a fact that the interests of vigorous and effective competition in provision of a range of services will be best served by a decision which promotes competitive supply of premium programming not by regulatory action concomitant on a decision which leads to the foreclosure of competition in supply.

With the rapid development of new information services and the delivery of established-services in new ways (eg video on demand, pay per view TV), networks which have previously carried only broadcast programming (and limited additional services such as Teletext), will carry a wider range of services, including interactive services such as home shopping and banking.

This phenomenon is being driven by a number of factors: technological, economic and regulatory. The technological factors include digitalisation which leads to more efficient use of the spectrum and a diminution, if not an end, to traditional spectrum scarcity. This presents the opportunity to develop a genuinely competitive TV market.

However, this new marketplace contains several actual or potential bottlenecks, which offer opportunities for the leveraging of market power in one sector of the market into market power in another.

The emerging picture is complex and it is tempting to argue that only detailed regulation can prevent these anti-competitive practices. However, the experience in telecom suggests that, where it is possible, regulation which encourages greater competition produces greater choice and value for the consumer than direct regulation of the output. In the broadcasting market this would translate into a diverse range of programmes and plurality of sources of information and opinion.. Regulation has been seen as the way to achieve them, as the potential for competition was necessarily limited by spectrum scarcity.

Under these circumstances, direct regulation of broadcasting for diversity and plurality was almost certainly the best way of achieving the objectives. In future, there is an opportunity to let commercial competition do much of the work which has necessarily had to be done in the past by regulation. This is not to argue that competition removes the need for sector specific regulation. It is, however, to argue for the need for decisions aimed at producing greater competition and harnessing that competition to the broader policy objectives of diversity and plurality.

Thus choice is expanded in two ways; the diminution of spectrum scarcity allows for increased choice of services and the viewers can play a more-influential role in choosing between these services. Such choices can only be fully exercised if viewers have genuine alternative sources of supply in both content and delivery medium.

World over experience of regulating the telecommunications sector is that when competition is possible, its introduction has achieved far greater innovation, range of output and consumer focus than direct regulation could achieve. The example of the market for mobile telephones is instructive here. Rollout by Cellnet and Vodafone was driven by regulatory requirements and while competition played a part, the speed of development of that market increased greatly when One 2 One and Orange were licensed. Competition between service providers resulting in innovation would have been unlikely in either a duopolistic market or where there was regulated monopoly provision. Development of cable franchises also increased once cable companies were allowed to offer telephony in direct competition with BT and others. These examples demonstrate how competition can be harnessed to achieve public policy goals.

Many regulators argue strongly that competition can have the same beneficial effects in broadcasting and that even a well regulated near monopoly is not the best way to achieve the objectives of plurality and diversity amongst pay TV services. It will not lead to the innovation in products and services that full competition will, and indeed may impede them.

Content, and specifically premium content, is the most significant competitive battleground for broadcasters. Content in general has traditionally been taken to refer to programme content (films, soaps and so on), but as noted above, will increasingly encompass transactions (where these are partly or wholly provided over broadcasting networks). Despite the competitive importance of content for broadcasters in the free-to-air market, limited bandwidth and the inability of the broadcaster to either exclude viewers or to price his content according to the viewers' valuation of it, has hitherto ensured that the market for content has been very imperfect and whatever content had been acquired by broadcasters would be available to the majority of viewers. Thus, before pay TV was practical, there had been no need on competition or public policy grounds, for restrictions on the sale of exclusive rights to such content. However the advent of pay TV has significantly changed this market and supply dynamic.

And customers will pay for high bandwidth networks only where this gives them access to valuable content. This puts content producers in a relatively powerful bargaining position and leads to the often repeated mantra that content is king. However, the outcome of this bargaining process may depend on the relative concentration or fragmentation of content producers compared to network and control system owners. If producers are small, as many independent producers are, they are unlikely to be able to demand access to transmission or control systems. Producers of premium 'branded' content will be able to secure access and moreover will be able to sell a large amount of less valuable content provided it is bundled together with some 'must have' content.

Dominance in content alone may not be self-sustaining. A dominant position in transmission or control is difficult to sustain without access to premium content. However, a dominant position in *both premium content and transmission or control* is very likely to be self-sustaining.

The move to digital transmission opens up much greater capacity, and thus increases the chances of capacity available for competitive entry (although this depends in part on how much of the new capacity is taken by existing operators). Regulation of conditional access systems for digital

television ensures that the control functions are also available for such new entrants. The general problem identified here is one of having transmission and control systems owned by those with a direct commercial interest in content. Power in control, transmission and content leads to a very powerful and sustainable market position – the dynamic reinforcement of a powerful position in content by a powerful position in control and transmission. And vice versa.

Maximisation of possible content competition, backed up by regulation where necessary, is the best way to achieve diversity and plurality and deliver choice to viewers. Control of both content and transmission networks could lead to abuse of a dominant position.

New Challenges : Digital Rights Management (DRM) :--

Digital Rights Management systems are removing traditional rights from consumers, and the costs associated with them outweigh the benefits. Much of the discussion on the digital environment has focused on the perspective of rights holders, fighting copyright infringement and respecting copyright laws. Strong copyright laws in the US and EU give copyright holders monopoly rights, not just on content, but also on the means to protect it. One of the tools deployed in the name of preventing copyright infringement are digital rights management systems (DRM), which can take the form of technological locks, unique identifiers like watermarks and technical implementations to monitor and control use of the product. A wide variety of technologies are involved in DRMs and they are increasingly embedded in consumer goods, such as music players, CDs and Ebooks. There are also proposals to embed DRMs in all digital TV's. These technologies have failed at every turn in the field: every work ever "protected" by DRM is currently available for download from P2P networks on the Internet, and there is no indication that these systems will ever work at their stated objective of stopping indiscriminate redistribution. However they impose costs on consumers by restricting use and curtailing competition.

Current technological measures designed to enforce copyright in the digital environment threaten core exemptions in copyright laws for disabled persons, libraries, educators, authors as well as consumers and undermine privacy and freedom. DRMs enable their controllers to make their own private rules and in so doing can override electronically not only the legislation of their own countries, but also that of other countries in relation to consumer protection and copyright exemptions.

Summary :

Government regulators need to know how and when to intervene. Understanding and responding to complexity, uncertainty and dynamic change requires a systems-thinking approach and monitoring and analysis of emerging issues.

Prepared for International Regulators Forum

Sept. 16th, 2006

Copyright Issues with Digitization of Content

Jea-ha Jung

Korean Broadcasting Commission

Unprecedented challenges

Theoretically, regulatory intervention in content industries can be justified as a remedy of 'market failure', which is based on two major properties of public goods: non-rivalness and non-excludability. Moreover, contents have other specific characteristics than public goods: high fixed costs and low marginal costs.

Copyright law, as a major tool of the intervention, has aimed at balancing non-rivalness with excludability to maximize social welfare while content owners seek to maximize only the value of their works.

However, the traditional copyright law has encountered major challenges by rapid technological change and convergence. The new technology of digitization in our present "knowledge and Information Era" has raised various issues on copyright in many different ways.

As digital processing grows more powerful and the high-speed transmission of digital contents becomes more pervasive, the delicate balance created and maintained by copyright law between the rights of owners and users has become unstable. In other words, the debate over whether copyright law has achieved the appropriate balance between incentives to engage in creative activity and the social benefits from the wide spread use of creative works is more likely to intensify.

With digitization, costs of copying digital contents and storage have dramatically decreased to a very low level without loss of quality while the technical potential for separating the different layers in the provision of communication services has dramatically increased.

Hence, the issue of digital content protection has become increasingly important and contentious. Content owners assert that content protection mechanisms are needed to promote the availability of high quality of creative works. Others express concerns that the use of technical measure to protect content will inhibit consumers' ability to enjoy programming they choose.

From the point of view, many questions arise. Which way the balance has tipped, what should be done about it, and how much current copyright law needs altering, are questions that receive different answers depending on in which side they are.

Content protection alternatives

Three primary options can be summarized in its deliberations on the copyright issues raised by digitization of content : forbearance, compulsory licensing of digital content and revision of copyright law in favour of either copyright holders or consumers of copyrighted material.

The first option allows market forces to adjust the conflict between copyright owners and consumers. The second option would be to use compulsory licensing to set a price for certain types of creative works. The option may be less efficient because the price of using copyrighted material would be the same for all consumers. A third option would be to revise copyright law in favour of one of the groups whose interests are at stake in the copyright debate.

DRMs(digital right management system) has been often proposed as a new tool to prevent contents in the digital era. Recently developed DRMs has the potential to enable copyright owners to engage in differential pricing. This indicates that DRMs is a market-oriented option among the alternatives. DRMs might function just as an exclusive tool since digital contents need no more tangible delivery goods or services to be viewed, recorded on communicated. DRMs can be also regarded as a tool to build upon *ex ante* excludability while copyright law builds *ex post* excludability. DRMs offer two types of motives for content owners to increase their revenue. One is their protected legal status improvement. The other is that DRMs allow the content owners to better extract consumers' willingness to pay. However, a condition for that works properly is that the network effects resulting from the legal content offer overwhelm the network effects by circumvention.

The broadcast flag should be understood as a DRMs. It could set up restrictions to the use of copyrighted content. Broadcasters may use it for making premium offers to viewers with coping

possibilities. An additional signal in broadcasting could be used for preventing or permitting copying free to air contents. The adoption of the broadcast flag could benefit to digital equipment, which bring to the consumer the network effects of easily accessible contents without any standard uncertainty while the DRMs over broadband are still engaged in a standard war.

Encryption at the source could be an alternative protection mechanism. Proponents assert that it is more effective than a flag system. However, it is pointed out that the associated implementation costs and delays make it less desirable.

In addition to the alternatives mentioned above, several content protection technologies such as watermarking and fingerprinting have been suggested. However, it could be argued that these technologies are insufficiently mature for implementation.

Implications for regulators : towards a new regulatory paradigm

Digitization of content might affect regulatory regimes in some ways. Regulation on content protection may be affected by the technological advances in two different ways. Firstly, content digitization lead to the development of new services and modes of delivery unforeseen by existing regulation. Secondly, digitization affect the overall market structure and level of competition.

A core question is how effective regulatory policies could be developed in order to fully leverage the opportunities created by rapid digitization of content: to what extent should digital contents be protected from the social welfare point of view? In which way could the contents be protected in the digital era?

Hence, a new regulatory paradigm might require to facilitate the development of technology in the digital content era. The paradigm should reflect several aspects such as the technological trend, the decentralization of intelligence, the divergence of infrastructure and services, the convergences of technology and services and so on. Furthermore, it should be considered that demand patterns and supply conditions affect overall market structure, which again affect the need of regulation.

With rapid digitization of content in Korea, debates over copyright have been focused much on how the revision of the law should be done to adopt the technological development more efficiently. At least three laws (Copyright Law, Computer Programme Protection Act and On-line Digital Content Protection Act) will be reviewed for revision in the near future.

Debate over 'must carry obligation' could be a hot issue with provision of IPTV service in Korea. Terrestrial broadcasters may use their bargaining power to protect digital programming content from potential competitors, even though 'must carry obligation' is applied to PBSs programmes for pay-TV operators at the moment.

Sesion2: Future Regulatory role in improving productivity from communication investment - introductory speech (10 min)

László Tóth, National Communications Authority, Hungary

NOTES

- Relationship between competition and investment is a hot issue in EU. **Competition drives investment or they are in trade-off?**
- **EU approach to regulation** (based on EU regulatory framework 2002) **and the Review.**
 - The objective of this sector-specific legislation is to guide the transition from monopoly to effective competition.

- Review: modernising EU rules in order to further intensify positive effects and to make it fit-for-purpose against the changing backdrop
incl debate about the best way to enhance competition and investment.
- **“Regulatory holiday”**: incumbent operators (under increasing pressure of competition, economic challenges and technological developments) suggested regulatory exemption for major new networks currently built by them. (Legislative provision is at an advanced stage in Germany for VDSL built by Deutsche Telekom).
- Several studies from both sides (incumbents and new entrants) to give **empirical evidence**, Study commissioned by EU can be found at http://ec.europa.eu/information_society/policy/ecomm/doc/info_centre/studies_ext_consult/assessment_growth_invst/investment.pdf
 - To provide empirical evidence is **not an easy exercise**
 - To measure competition and regulatory performance
 - To eliminate effects of other inputs (economic conditions, including the investment cycle)
 - Noteworthy **findings**:
 - Competition increases: half of the turnover generated in EC market in Europe comes from new market entrants
 - Investment increases: 2005 was the third consecutive of increased y-o-y investment levels, and overtaken US and Asia Pacific Region (45 bn€)
 - Investment as well as regulation varies widely among member states.
 - Correlation: member states with effective application of EU rules and having strong competition achieved better results in terms of investment
- **EU’s conclusion**: in network-based economies effective competition does not prevent, but drives investment (regulatory holiday is not a policy option).

**PRESENTATION AT THE INTERNATIONAL REGULATORS FORUM, 16-17 SEPTEMBER
2006. MCMC, KUALA LUMPUR, MALAYSIA**

**MOBILE AND FIXED TECHNOLOGIES DELIVERING CONTENT- SHOULD THE SAME
RULES APPLY?**

BY N. HABBI GUNZE, DIRECTOR, BROADCASTING AFFAIRS, TANZANIA

COMMUNICATIONS REGULATORY AUTHORITY (TCRA)

Chairperson of the International Regulators Forum,
Fellow Regulators
Invited Guests
Ladies and Gentlemen,

Chairperson,

Let me from the outset express my sincere gratitude to the organizers of this international forum for inviting the Tanzania communications regulatory authority (TCRA) to be part of this discourse at this point in time when media technologies have taken the world by storm, changing the way we listen to the radio and watch television. Indeed it has changed completely the way we live.

Chairperson,

The agenda before us is whether we should apply the same rules on regulation of content on mobile and fixed services. The answer to this question is yes and no.

Chairperson,

Let me say from the beginning that it is not possible to discuss the subject exhaustively in ten minutes that have been allocated to me. However I will try to share my experience of regulation in Tanzania and how we are grappling with this new media.

Chairperson,

If we are to refresh our minds, governments do regulate broadcasting because of its complex relationship between their political and cultural roles and their commercial objectives. These relationships have been impacted by rapid changes in technology posing regulatory challenges.

Chairperson,

The early justification for regulation of the broadcast content is that it produces materials, which are consumed by universal audience both in terms of geographical reach and personal profile. This requires special treatment. The reason for this special treatment is that the audience has no effective control over scheduling and content of the material received or delivered free on air. But this argument now is much weaker than it was ten year ago because of technological development that

allow audiences to choose what they want and at a time they want to listen or watch. This indeed presents very huge regulatory challenge to regulators.

Chairperson,

For universal programming for mass public consumption, there will be always be a need for sensitivities to audiences but in programming made available in progressively segmented formats either by narrow casting or subscription the case for content regulation becomes correspondingly weaker.

Chairperson,

On the other hand, broadcasting as a public good has to be regulated by governments regardless of the mode of delivery. Regulation of content differs from jurisdiction to jurisdiction depending on the political and cultural background of every country. Dictatorships tend to have heavy-handed regulation on content than democratic governments.

Chairperson,

We need to discuss today how the new technologies are impacting on regulations regarding programming, scheduling, licensing, ownership, privacy, competition, impartiality, pluralism, quality of service etc.

For instance I do not see regulators abandoning licensing of mobile broadcasting services that use spectrum for the very reason those frequencies are a scarce resource.

On the other hand fixed new media services like IPTV do not so much present a regulatory headache to regulators because of its infancy. It deserves to be given chance to grow to maturity.

Chairperson,

TCRA is a converged regulator. Its licensing policy is such that it is technologically neutral. We are studying ways of licensing both mobile and fixed new media services with a view of giving our people more choice and more diversity for services and allow competition and promote different technologies that will contribute to the further development of the communication sector in the country.

My humble concluding remarks are that for the fixed new media service we should not apply any rules to regulate the service because it is still in its infancy. Let it grow and we will see if the future

presents room for regulation. For the mobile service as long as it uses spectrum, the service should not avoid regulation.

In Tanzania our initial planning for both traditional digital terrestrial broadcasting and mobile broadcasting show that they are indications of scarcity of spectrum if all current licence services and new ones are to operate on digital platform at all levels of market segment, namely, community, district, regional and national. These are the areas we need to think about in terms of regulatory frameworks.

With this few remarks I thank you very much for your attention.

Sector-Specific Regulation or Cross-Sector Competition Authorities
The Debate and the Developments in Hong Kong

Ladies and Gentlemen

Good Morning. I am glad to have the opportunity to share with you the Hong Kong experience in telecommunications regulation in a competitive and convergent environment.

The issue of convergence, especially between telecommunications and broadcasting, has been debated for quite some time in the communications policy and regulatory community. In recent years, concrete action has been taken by various administrations to increase the flexibility of regulators so that they meet the challenges of convergence effectively, and this has often resulted in major institutional changes. More notable examples include the creation of the Office of Communications (Ofcom) in the United Kingdom in 2003, and the merger of the Australian Broadcasting Authority and the Australian Communications Authority to form the Australian Communications and Media Authority (ACMA) in 2005. In Hong Kong, we also have a plan to merge the Broadcasting Authority and the Telecommunications Authority – the name coined for our future unified regulator being the Communications Authority.

Hong Kong is perhaps unique in the sense that it is one of the few developed

economies in the world that has yet to have a cross-sector competition law. Therefore, in order that we might safeguard fair competition and consumer interest when we liberalize the telecommunications market, we incorporated in our telecommunications legislation a set of competition provisions, including the prohibition of anti-competitive behaviour, abuse of dominance and merger control. These effectively handle the same issues that are addressed by cross-sector competition law regimes in other jurisdictions. A similar sector-specific approach was adopted for our broadcasting sector.

To assess the effectiveness of our sector-specific regulatory regime, we commissioned an international benchmarking study to compare the competitiveness of our telecommunications industry relative to other comparable and “best practice” markets from time to time. The last time we released such a report was in December 2005. The study focuses on four key competition issues i.e. (I) regulatory framework, (II) development and effectiveness of competition, (III) consumer benefits, and (IV) industry investment.

The 2005 study made a number of observations, and the ones that are relevant to our subject matter are:

- While Hong Kong does not have any general competition laws, the telecommunications legislation covers all the key anti-competitive practices covered by general competition laws in other review markets
- Hong Kong is balanced in its approach to promoting market competition. Apart from implementing asymmetric regulations to ensure market competition, the regulator ensures that the level of regulation is commensurate with the effectiveness of market competition. This is reflected in OFTA’s initiative in implementing ex-post regulation of tariffs of the fixed incumbent operator;
- The existence of four active local fixed networks in competition with the incumbent has

increased the level of competition. The effectiveness is significant as evidenced by the rapid erosion in the market share of the incumbent, which has a market share of less than 70%;

- Hong Kong's continued emphasis on the promotion of competition in the mobile sector has resulted in very effective competition in the sector. Hong Kong continues to record the lowest mobile market concentration among the countries that we have studied ;
- the local loop unbundling (LLU) is more advanced in Hong Kong than in most other markets. Given that the policy objectives of increasing market competition have been met, mandatory LLU will be fully withdrawn by 30 June 2008 to promote investment and consumer choice in high bandwidth customer access networks.

Notwithstanding the success of our specific-sector approach so far, there are views in the community advocating for introduction of cross-sector competition regulation. As the enterprises grow in strength together with an increased presence of multinational enterprises, there are concerns that forces capable of cornering the market may emerge in Hong Kong. To address such a concern and to safeguard the integrity of the level playing field, the government appointed last year an independent committee, the Competition Policy Review Committee (CPRC) to review the effectiveness of the existing competition policy.

In a report that it published in June 2006, the CPRC recommends that a new cross-sector legislation be introduced to guard against anti-competitive conduct that would have an adverse effect on economic efficiency and free trade in Hong Kong. Anti-competitive conduct, including price-fixing, bid-rigging, market allocation, sales and production quotas, joint boycotts, unfair or discriminatory standards, and abuse of a dominant market position, should be regulated if it is proven to have been carried out with the intent to of effect of distorting the market.

Concerning the regulatory authority, CPRC proposes the establishment of a Competition

Commission. The Commission should be given sufficient investigation powers, including the power to request for information, to require production of records and documents and with court warrants, enter and inspect premises and seize relevant documentary evidence. To put in place appropriate checks and balances, CPRC suggests the government to consider the merits of establishing a Competition Tribunal to hear cases brought by the Competition Commission and to hand down sanctions.

Regarding sanctions, the CPRC considers that civil penalties, exemplified by heavy fines, should be a sufficient deterrent to anti-competitive conduct. In addition, the Competition Commission should be given the power to issue interim orders requiring a business to cease and desist from suspected anti-competitive conduct pending a decision on the case. In such case, risk to normal business operations from continued anti-competitive conduct pending the determination of a case could be minimized.

Regarding the interface between the cross-sector competition law and the existing sector-specific provisions in the communications sector, CPRC considers that the existing sector specific regimes should initially be retained, for three main reasons. Firstly, the proposed cross-sector competition law is not as comprehensive as the existing sector specific regimes. Secondly, the sector specific regimes have been operating for a number of years and the sector regulators have built up a body of guidelines, procedures and precedents which the new cross-sector authority may take some time to develop. Thirdly, there are advantages for the sector specific regulators to continue to administer competition law in their respective sectors because of their detailed knowledge about the operation of these sectors.

The challenge for the cross-sector competition authority and the future Communications Authority is “coordination”. With a cross-sector competition law co-existing with a sector specific

competition regime in communications, it is important that the legal standards prescribed in the detailed provisions in the legislation should be consistent. There will be concern about how to deal with competition issues that straddle the communications sector and the other sectors, and whether the sector specific legislation or the cross sector legislation will apply. The two authorities will also need to coordinate and liaise on the cases to come up with the most effective approach within their respective jurisdiction to deal with such cross sectoral competition issues.

This paper has outlined the approach that we may take in setting up our cross sectoral competition authority, and the need for coordination between the sector-specific Communications Authority with this new agency. I understand that some of you are at a more advanced stage than we are and I would welcome any views and comments that you may have on our approach.

“Media Literacy, Communications Literacy and Self-regulation – What role should the regulator play?”

Presentation of Gernot Schumann, European Affairs Commissioner of the “Direktorenkonferenz der Landesmedienanstalten - DLM” (Directors’ Conference of the State Media Authorities in Germany) and Director of the “Unabhängige Landesanstalt für Rundfunk und neue Medien – ULR” (Independent State Regulatory Authority for Broadcasting and New Media) on the occasion of the International Regulators Forum on 16/17.09.2006 in Kuala Lumpur (Malaysia)

- Check against delivery -

Address,

First of all, I would like to thank the Malaysia Communications and Multimedia Commission and the organizers of the Forum for the invitation and the opportunity to provide you with a rough overview of

- media literacy activities by the German State Media Authorities and of

- the self-regulation mechanism which has been established to protect human dignity and minors from harmful electronic media content.

Before I get started with the subject, it is necessary to provide some basic information on German broadcasting and editorial content regulation:

- As you may know, in Germany, the federal states have jurisdiction over broadcasting and the regulation of electronic mass media content.²
- There are 15 State Media Authorities to carry out the regulations in the commercial electronic media sector, especially for broadcasting.³
- However, they are not a bunch of lone wolves. On the contrary, they co-operate and co-ordinate their actions very closely. This takes place within the “Directors’ Conference of the State Media Authorities”, the DLM. It deals with all issues that have nationwide impact and relevance.³
- But, there is an exception to the rule. This is the protection of human dignity and minors. This is the remit of the Commission for the Protection of Minors, the KJM. It is a common organ of all

²Content in electronic mass media profits from the free speech principle and broadcasting freedom, both guaranteed by the Constitution. However, with a view to ensuring this freedom and, at the same time, to protect general interest, there is regulation. It contains, among other things, provisions for the protection of human dignity and minors from harmful editorial content.

³ They primarily have the “classical” remit of all regulatory authorities, i.e. the licensing and monitoring of commercial radio and TV channels to ensure throughout Germany diversity of editorial content and plurality of opinion in broadcasting as well as compliance with regulation.

³ However, the DLM’s decisions need to be implemented by one of the 15 State Media Authority.

State Media Authorities. It has 12 members, among them 6 directors of State Media Authorities.⁴

One of them serves as chairman. He has the decisive vote.

Keeping this in mind, let us now turn to **self-regulation**. It is an important element in the current system for the protection of human dignity and minors that has been in effect since April 2003. This system contains, beside the classical system of supervision and sanctioning by State Media Authorities, a self-regulation mechanism by bodies established by the industry. However, the new system is not purely self-regulation. Taking into account the age-old wisdom that the fox cannot protect the henhouse, the lawmakers have invented a co-regulation scheme. This means that the self-regulatory bodies operate responsibly in the field but the state has, if necessary, the final say in the matter.

- What services fall within the scope of co-regulation?

Co-regulation covers

- commercial TV programme services as well as
- all other audiovisual services that address the general public.

Co-regulation applies to these services irrespective of the network used. As a result, even services on the internet are subject to co-regulation.

- At its core, how does co-regulation work?

Co-regulation aims at preventing harmful content from being broadcast by strengthening the preliminary responsibility of the industry itself. Thus, the law enables the industry to establish self-regulatory bodies, which have to be certified. They then regulate the content which is supposed to be distributed by affiliated members of the body.⁵

- How does the state assume its responsibility?

⁴ The other members are appointed by state and federal administration.

⁵ Regulation in this context means that the self-regulatory body has to make sure that at the time of broadcast the content submitted to it complies with all legal and statutory provisions concerning the protection of human dignity and minors.

First of all, the KJM has to certify the self-regulatory bodies. Then, the KJM monitors the work of the certified bodies. Legal provisions, which consist partly of “weak” terms, but also the KJM’s codes and guidelines narrow the “leeway” of self-regulation. However, with regard to the bodies’ decisions, the KJM can only intervene in cases of gross misconduct.

After three years of operation, it is still too early for a definite assessment of co-regulation in Germany. However, I can give you some relevant facts.

To this point, the KJM has certified two self-regulatory bodies:

- One is the FSF.⁶ Almost all German commercial broadcasters are members. Until now, the FSF has decided on about 8,000 applications.^{6a}
- The second self-regulatory body is one for the multi-media and internet industry, the FSM.^{7 8} The key-problem of the FSM is that the majority of internet service providers are not willing “to join the club” and even the members do not submit all content. All these offerings have to be regulated by the KJM. On the whole, the KJM has, so far, dealt with 550 cases.

Address,

Let us now turn to **media literacy**. When this concept came up in Germany in the early 90s, it was

⁶ “Freiwillige Selbstkontrolle Fernsehen” (Voluntary Self-Regulation for Television)

^{6a} In more than 5,000 cases the FSF followed the opinion of the broadcaster. To date, the KJM has checked four of the FSF’s decisions. In two cases, the KJM has overruled the FSF.

⁷ “Freiwillige Selbstkontrolle Multimedia” (Voluntary Self-Regulation Multi-Media)

⁸ The FSM was certified in October 2005. Members are internet providers like AOL Germany and German Telekom but also major mobile phone service providers.

welcomed as a new, additional, preventive way to protect minors from harmful content. Moreover, the media authorities had experienced how difficult it was in a multi-channel environment to ensure the protection of minors by “classical” means, i.e. the case-by-case procedure. The German media authorities had become aware that the consumption of media – even if the content complies with regulations - did not always have a positive impact on the formation of values or in shaping the social behaviour of children and adolescents. As all pharmacologists know, it is the dose that makes the poison. As the media authorities could not change the dose, they adopted the concept of media literacy hoping to make people immune to the overdose.

Anyway, the German legislators have commissioned and enabled the media authorities to contribute actively to media literacy. Thus, the role of German regulators in this field has been quite clear for a couple of years.

Let me come back to the concept. You all know that media literacy is more than just the protection of minors. It affects young and old. The paramount importance of electronic media in society⁹ has made media literacy one of the key skills nowadays. Media literacy decides to a great extent whether you are “a user or a loser”.

To make it clear: For us as media authorities, media literacy means more than just the ability to deal with hard- and software and to operate a search-engine. Our activities are primarily focussed on editorial content because that is our business. Our objective in this field is first and foremost to foster every citizen’s ability to

- operate the technology to find what they are looking for,
- understand the material,
- have an opinion about it and to
- respond to it, where necessary.

This is a demanding objective. This requires a great deal of expertise and training.

To develop media literacy, the State Media Authorities make use of a multitude of measures and projects. I can only name but a few:

⁹ The electronic media are an essential “agent of socialisation”, they are the key to advanced education, and they are medium and factor in opinion shaping and decision-making in a democracy. Media literacy determines to a great extent how we are able to participate in social and political life.

- The media authorities have established their own research and training institutions, like the European Centre for Media Competence.¹⁰
- They commission studies at other research institutions, for example, studies on „Media Education in Families,“ “Preschoolers and Computers” and “Fostering of media literacy by parents”. Currently, a study on pornographic and violent video clips on mobile phones used by adolescents is underway. It aims at developing educational options for parents and teachers.
- The media authorities fund third-party projects, for example courses at the “International School of New Media”.
- They provide parents, teachers and educators with information and assistance through brochures and websites, such as the „Internet ABC,“ or a free brochure which evaluates TV content attractive to children.
- They educate key players in the pedagogical arena, especially teachers and educators.
- The media authorities organise events for the general public, providing them with information on “hot” topics, such as the „Risks for adolescents in Internet Chat Rooms“.
- They support the education of the next generation of journalists, partly with foreign counterparts, for example, the “Baltic Media Youth Camp”.
- To finish my short list I will address the, in my opinion, certainly most original and most effective way of developing media literacy: proactive opportunities for „learning by doing“ within what we

¹⁰ „Europäisches Zentrum für Medienkompetenz (ECMC)“.

call „citizen media“ facilities. This is where people have the opportunity to design and produce on their own responsibility their own programmes, which are then broadcast on a regional level via cable or terrestrial means. There are about 300 citizen media facilities in Germany, such as public access channels for radio and television as well as private, non-commercial radio stations and campus broadcasting. In general, they are all either part of or funded by the media authorities.

As you can see, the State Media Authorities in Germany are more than just licensers and watchdogs. They are certainly among the most important institutions to convey media literacy. Due to their expertise and human resources they are very well positioned to develop media literacy. In this context, it is helpful

- that media regulation in Germany has a federal structure,
- that the regulators are regionally located and
- that there is always slight competition between them.

Let me finish with a vision: Maybe, due to convergence and deregulation, media authorities will be in the future no longer regulators but pedagogical institutes.

Kuala Lumpur, September 17th, 2006

1. I realised the changes that 12 months as a converged regulator had brought about in me – and I came from broadcast background – when my first reaction to the topic was not to focus on the issues of whether broadcasting will retain some of the spectrum when analog is switched off, but rather on how we will further liberalise regulation of all spectrum.
2. The debate in Australia is largely but not completely on the processes by which the decisions will be made and how we will sell and manage the spectrum – this may be because it has not really sunk in that spectrum will become available, but I think not.
3. Let me give some background first.
 - We currently have 2 different spectrum regimes.
 - a) the broadcasting services bands: reserved sections of the spectrum for broadcast-only use
 - the management of these bands is quite restrictive
 - there is geographic-based access to spectrum for licensed services (apparatus licence)
 - the service licence cannot in practice be unbundled from the apparatus licence.
 - b) other spectrum – much more liberal regulation – which we regulate using spectrum licensing and class licensing.
 - spectrum licensing:
 - provides a tradeable, technology neutral access right for a fixed non-renewable term of up to 15 years.
 - doesn't authorise the use of a specific device, rather it authorises the use of spectrum and gives licensees the freedom to deploy any device from any site within the spectrum provided the device is compatible with the core conditions of the licence and the technical framework for the band.
 - class licensing:

- open, standing authority that allows anyone to operate certain equipment provided the device and its operation keep within the conditions of the licence. There are no application requirements and no fees.

4. The questions we face are common:

- a) how many digital television services should we cater for and how much spectrum does this require?

I think we have largely settled this, because with:

- TV: we gave spectrum each incumbent with sufficient bandwidth in current technology for HDTV.
- radio: we are providing spectrum to largely convert incumbents.
- public sector broadcasters, have more generous allocation - may also be able to carry a community, not for profit stream (but that is unresolved).
- in new year we will auctioning 2 new digital channels:
 - one data heavy / non general programming and in-home service which could be provided nationally.
 - one configured to allow for mobile television use.
 - we will let the market decide whether it is used for a mobile or an in-home service.

5. The issues that we know we need to face (although there will be others we have not addressed) include:

- a) how to move our broadcast system from one based on geographic licence areas to one able to compete with non-geographic based competitors (like mobile TV or IPTV through broadband) .
- and how to try to achieve localism.
- b) content obligations.
- should they be Australia-wide or local / district content such as local news.
 - as a regulator we will need to consider an environment in which competition for existing broadcasters will range across platforms which do not have cultural obligations (mobile phone 3G, IPTV) and may be outside our jurisdiction.
 - we have done some work on whether a market mechanism for trading Australian content obligations is feasible.

6. But the question we have been focusing on, is how to manage the spectrum, more generally in the years ahead.
7. We are literally right in the middle of that debate – we released a public discussion paper a few months ago.
8. We are not likely to replicate the ‘Apparatus Based Licences’ of the old broadcast spectrum for the new released spectrum because:
 - it is administratively complex for the regulator to manage frequency co-ordination.
 - It is very inflexible in use, as it reduces the capacity to use a wide range of equipment, deploy services to suit business plans and deploy networks as desired.
9. ‘Public Park’ class licences: have been useful but have limitations.
 - They have been useful for mass consumer devices.
 - The public park approach allows users to operate devices in designated segments of spectrum on an uncoordinated and shared basis. Users must operate devices in accordance with specified parameters (typically including frequency bands, radiated power limits, and out-of-band emission levels), and technical and operational conditions may also be specified.
 - Public park spectrum is administered by means of class licences in Australia, though it has some similarities to unlicensed or licence-exempt spectrum concepts in other countries. There are no applications and no fees are payable, but devices do not receive interference protection, and location and numbers of devices operating are not coordinated. Anyone can operate any number of devices, anywhere, as long as they abide by the conditions of the class licence, giving greater flexibility for industry but no protection or surety on the spectrum integrity of the systems. Interference management relies largely on the ‘level playing field’ approach: all users are subject to the same limitations on radiated power and frequency range.
 - This model is not favoured by comprehensive service carriers and larger-scale ISPs, particularly those with government infrastructure funding – they cannot guarantee and manage quality of service because of the risk of interference, especially in high spectrum use areas.

- Another major problem is the ‘the tragedy of the commons’: too much unfettered use can make the band less than ideal for some services.
- Examples:
RLANs and Wi-Fi hotspots operate in public park bands.

10. the ‘Private Park’: we are exploring this as an option.

- Private park for spectrum concept has been floated as a way to increase the efficiency of spectrum use.
- With traditional interference management: inefficiencies are built into spectrum licensing arrangement as users may not be using their exclusive spectrum space to its maximum extent all the time, and the leeway built into the geographic and frequency separations represent spectrum that may be unused.
- Class licensing allows multiple devices to share the same spectrum by imposing certain restrictions. Because there are no controls on the number of users it can be difficult for providers of commercial services to guarantee quality of service.
- Technology may provide one answer: the development of a new type of device that avoids interference automatically through dynamic frequency selection and the use of contention-based protocols provides the potential to remove inefficiencies built into the traditional, exclusive-use licensing arrangements, and to avoid the quality of service issues that may result under class licensing.
- The private park attempts to gain the advantages of both the class licensing and exclusive-use licensing systems; it would control interference in the same way as a class licence by specifying conditions under which devices can use the park, which enables very efficient use of the spectrum.
- With regard to quality of service, entry to the private park would be controlled by issuing individual licences that authorise shared use, and requiring the registration of devices.

11. But of course the other question is, will scarcity be a problem or not.

- Spectrum is scarce in only some bands.
- Some new technologies encourage efficient spectrum use, and contribute to the move in perception away from it being a scarce resource to a finite resource that we must manage rather than restrict. Many emerging radio-based wireless products incorporate intelligent features that could avoid interference and thereby enhance

spectrum use. Examples include ‘listen before transmit’; smart antennas, mesh networking and other software-defined radio features.

- The age of ‘software-based regulation’ has arrived thanks to technology’s ability to manage interference at the individual device level.
- Intelligent devices follow defined protocols therefore regulation still has a role, and we are the ones who need to create and agree on the rules.
- There are drivers in the other direction. They are: increased demand for mobility, new technologies that increase use, wireless substitutes can be more competitive in terms of cost (e.g. using wireless for last mile).

12. Thank you.