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# How can a unified regulatory regime best serve Hong Kong in the era of convergence?

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# Content

- On evolving convergence
- Feedback to consultation
- Wish-list for Communications Authority

# On evolving convergence

- Triple play
- Voice over cable
- TV over ADSL
- Video over Internet/web
- Internet radio
- Mobile TV
- From podcast to vodcast, blog to vlog...

# 巴士阿叔 as a case of convergence

- User-created content driven by mobile and Internet services
  - Crossovers to mainstream media
  - User-created Reality TV
  - Creativity to imitations: numerous remixes and sequels
  - Privacy and copyright issues
- International attention for a Asia' s World City
  - “Grumpy man on the bus becomes star of the Internet”:  
<http://technology.guardian.co.uk/news/story/0,,1783351,00.html>
  - “Grumpy man is Internet hit”:  
<http://www.cbsnews.com/stories/2006/05/25/ap/strange/mainD8HQS0Q80.shtml>
  - “Video of grumpy man is Internet hit”:  
[http://www.newsvine.com/\\_news/2006/05/25/222912-video-of-grumpy-man-an-internet-hit](http://www.newsvine.com/_news/2006/05/25/222912-video-of-grumpy-man-an-internet-hit)
- How can and should content be regulated?



# Feedback to consultation

- Unified regulatory regime is long overdue
  - New Communications Authority will focus on administrative integration first
  - Maintain regulatory and licensing arrangements of Telecom Ordinance and Broadcasting Ordinance
  - Review to consolidate competition provisions will be postponed
  - Welcome the formation of a unified, market-based (rather than technical) regulator, at last
    - Discussions of unified regulator started since 2000 when Administration proposed the Broadcasting Bill to Legco
  - But no actual commitment, roadmap or timetable yet for real regulatory convergence
  - Concern for CA confusion regulating based on two ordinances with potential conflicting regulatory principles
    - Government should explain the principles as to how regulatory process will be coordinated and consolidated during the transition period
  - Urge for faster legislative and regulatory integration

# Feedback to consultation

## ■ Public mission of CA

- “To promote competition, innovation and investment in the communications market and to uphold freedom of speech guaranteed under Article 27 of the Basic Law and the relevant provisions of the Hong Kong Bill of Rights Ordinance”
- No mention of consumer protection and user choice, which are currently important missions of TA
- Adopt statutory role to emphasize on protecting and enhancing consumers and maintaining fair competition in the market

## ■ Governance structure

- Appointment of seven members comprising of:
  - A non-official Chairman and four non-official members
  - An official member appointed by CE on advice of SCIT
  - Director-General of OFCA will be the ex-officio member
- Competency, knowledge, integrity, neutrality, balance
- Need adequate representation in CA to reflect the concerns and interests of consumers and users
- Transparency of operation and public accountability

# Feedback to consultation

- Integration of regulatory role
  - Conflicts between technical and content regulation
    - Maintain technology neutrality
  - Reduce/maintain minimal regulation for content and broadcasting
  - Expedite consultation and unifying regulatory guiding principles of pro-competition and consumer protection clauses in ordinances
    - E.g. Broadcasting Ordinance controls based on cross media/licenses ownership rather than market-based dominance
    - M&A control: Broadcasting – no; Telecom – yes
    - Consumer safeguards: Broadcasting – no; Telecom – yes (7M)
- Regulatory guiding principles
  - Regulatory tolerance instead of regulatory intervention as long as public interest is safeguarded when dealing with innovative services enabled by emerging technologies
  - CA must be able to intervene firmly, promptly and effectively when required

# Feedback to consultation

- Competition and consumer safeguards
  - Review to consolidate competition provisions will be postponed
    - Expedite review and integration of related competition provisions
  - Lack of safeguards for cross-sector anti-competitive behavior
    - General competition law
  - Consumer safeguards
    - Against misleading and deceptive conducts, e.g. No redress for consumers of pay TV services similar to 7M in Telecom Ordinance
    - Privacy safeguards: Include adequate protection for consumers against unfairness or infringement of privacy in electronic media and services markets in the review of integrated regulatory framework
  - Strengthening enforcement
  - Unifying appeal mechanism
    - Currently limited power for Telecom Appeal Board: e.g. not applicable for VAS like broadband
    - No appeal process for broadcasting

# Wish-list for Communications Authority

- Minimal content regulation
  - Freedom of information is of critical importance to Hong Kong
  - Liberalize any outdated regulations on content and broadcasting
- Maintain technology neutrality and progressive technology adoption environment
  - Encourage new technology development and adoption
    - E.g. WBA, ENUM, DTTV etc.
  - Should not impose to regulate new media services currently not regulated, e.g. Internet broadcasting
- Strengthen competition safeguards and consumer protection
  - Expedite consultation to unify legislation and regulatory principle
  - Develop safeguards against cross-sector anti-competition behavior
  - ▶ But what about anti-competitive behavior beyond broadcasting and telecom?
    - ▶ General competition law

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# Thank you

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