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**(2827 5086)**

Our Ref.: C/COG, M6543

23 September 1999

Mr. Eric K.C. Li,  
Li, Tang, Chen & Co.,  
Room 1021, 10/F,  
Sun Hung Kai Centre,  
30 Harbour Road,  
Hong Kong.

Dear Eric,

**Telecommunication (Amendment) Bill 1999**

I mentioned earlier that members of the Legal Committee had comments to make on the above Bill. I understand that a Bills Committee has now been set up to consider it, but I do not have any information on whether or not it has had held any meetings.

The Committee's comments are as follows:

--- *Clause 4 new section 7H (copy attached at Appendix A)*

The term "accounting practices" in the first line should be replaced by "accounting policies" and the same term in the second line should be replaced by "accounting principles". The proposed terminology will be more readily understood by practising accountants.

--- *Clause 18, new section 35A (copy attached at Appendix B)*

It is assumed that this provision, which allows the Telecommunications Authority (TA) to enter the premises of a licensee and to inspect and make copies of documents, etc, is not intended to override legal privilege. This should be confirmed. However, even if it is confirmed, we believe that this provision is too broad. Under the proposed section 35A(1), there are no qualifications or restrictions on the Authority's power to enter the premises of a licensee and make copies of document, nor does the Authority have to give any reason for requiring entry. This can be contrasted with comparable provisions in other legislation which are more clearly circumscribed; for example sections 65D and 95 of the Securities Ordinance (Cap. 333) and section 29A of the Securities and Futures Commission

--- Ordinance (Cap. 24) (copies attached), which require only that books, etc. be produced on demand. While section 45 of the Television Ordinance (copy also attached) allows the Broadcasting Authority to enter the premises of a licensee, this provision is qualified to a greater extent than section 35A and, under subsection (3) contains proper safeguards in relation to the preservation of confidentiality.

The proposed section 35A should be reviewed in the light of the above and its effect should be narrowed down appropriately.

*Clause 23, new section 36D*

Members of the Committee were concerned about the extensive grounds for the TA to be able to obtain information from third parties under this clause. Although there is a requirement for a magistrate's warrant to be obtained, the magistrate need only be satisfied that the information sought by the TA is relevant to its functions. This is very open-ended and does not afford much protection to third parties. One suggestion is that this power should be specifically limited to situations where significant breaches of the Telecommunication Ordinance, are suspected to have occurred, particularly those related to anti-competitive conduct, as suggested at paragraph 14 of the Legislative Council Brief (relevant extracts attached at Appendix C).

We would be grateful if you would make these views known to the Bills Committee.

Yours sincerely,

PETER TISMAN  
DEPUTY DIRECTOR  
(PROFESSIONAL PRACTICES)  
HONG KONG SOCIETY OF ACCOUNTANTS

PMT/ay  
Encls.

c.c. Clerk to the Bills Committee on the Telecommunication (Amendment) Bill 1999  
(Attn: Ms. P. Yeung) (Fax: 2121 0420)