

FOR DISCUSSION
on 12 July 2002

Legislative Council Panel on Home Affairs

**Way Forward for Internet Computer Services Centres
and Amusement Game Centres**

Purpose

This paper seeks Members' views on possible regulatory options for Internet Computer Services Centres (ICSCs) and possible revisions to the licensing conditions for Amusement Game Centres.

Internet Computer Services Centres

Background

2. The increased use of the Internet and growing popularity of Internet surfing and Internet games have led to a proliferation of ICSCs (commonly known as Internet Cafes) in Hong Kong. ICSCs may take many different forms but they are normally equipped with computers of which customers can make use to obtain Internet services, including playing of computer games downloaded from the Internet. At present, we estimate that there are around 290 ICSCs operating in Hong Kong.

3. There have been rising concerns from the community on the mode of operation of ICSCs, particularly over young patrons having access to pornographic material and Internet gambling opportunities and the possibility that these centers may become additional venues for vice and triad activities. There are also increasing concerns over fire safety and public safety aspects from the community.

4. Our present thinking is not to impose unnecessary control over Internet use, to minimise hurdles against setting up businesses and to address community's concerns (especially public safety ones) over these establishments. We, for the reasons mentioned above, need to consider whether ICSCs should be put under some form of regulation and if so, how this can be done without unduly hampering proper use of information technology. In the process, it is important that we gauge wider public opinion and encourage the community to fully debate the matter before a decision is promptly made.

Possible Regulatory Options

5. We believe that Government should as a matter of principle minimize red tapes and impose only minimum controls necessary for ensuring public safety and observance of relevant legislation against obscenity and indecency. We have to avoid over-regulation, whilst making sure that our youth are protected from bad influences. Since ICSCs are fairly new establishments, we have therefore drawn experience from other countries on how they deal with the matter. Possible regulatory options are set out below for members' consideration.

Option A

6. ICSCs are not required to obtain separate licence apart from the general requirement (as applicable to all persons carrying on businesses) to register with the Business Registration Office. Under such a system, ICSCs are subject to minimal control. No restriction on operating hours and age of patrons are to be imposed.

7. This approach minimizes barriers to entry and facilitates the development of IT. However, it may fall short of public expectations to bring ICSCs under proper regulation. We have explored with the Business Registration Office as to whether they could channel all BR applications relating to the establishment of ICSCs to the relevant enforcement departments for follow-up but the channeling proposal was found not feasible due to the minimal information provided in a BR application, which in any case can only be used for purposes relating to the administration of tax laws.

Option B

8. Under this option, ICSCs are to be licensed and regulated on par with conventional Amusement Games Centres (AGCs) since some may think that despite offering different services, certain modes of operation of ICSCs, such as the provision of on-line games, are very similar to AGCs. However, the Amusement Games Centres Ordinance (Cap.435) was enacted in 1993 to primarily regulate the operation of conventional AGCs where playing of video game machines is their sole business. The provisions in the Ordinance are thus specific to the operations of AGCs and not entirely suitable for application to the newly emerged ICSCs. For example, the requirement that all games

must be pre-approved by TELA would not be applicable to ICSCs as TELA cannot have access control over the endless games provided on the Internet. Furthermore, the requirement that the provision of games must be the sole business is clearly too restrictive as many ICSCs currently provide other services such as refreshments. Such a requirement will adversely limit the business potential of ICSCs.

9. In fact, in order to keep up with changing community views and business environment, we are conducting a separate review on the suitability of relaxing some of the current licensing conditions/administrative practices for AGCs as set out in para.14 below. As at present, whether the licensing regime for AGCs can be sufficiently relaxed to such an extent for co-regulation with ICSCs has yet to be ascertained.

Option C

10. Under this option (which is largely based on Korean experience), ICSCs are to be regulated under a newly introduced “notification system” which may include the following features -

- (a) operators will be required by law to notify the relevant authority when they intend to establish an ICSC. Non-compliance will be subject to criminal sanction;
- (b) We will publicise extensively the requirements and restrictions of the notification system, such as guidelines on public safety, to allow sufficient time for interested ICSC operators to familiarize and satisfy the requirements of this system. These guidelines will include requiring ICSC operators to employ a registered fire service installation contractor, registered specialist contractor (ventilation works category) and a qualified building professional to maintain the respective fire service installation and ventilation system in accordance with the existing fire and building safety legislation.
- (c) once notification has been given by an operator who has fulfilled all requirements of the notification system, business can start upon acknowledgement by the authority without obtaining prior approvals from Government; this constitutes the

main difference from a licensing system whereby the operator could only start business upon the issue of a licence which may take a relatively longer period;

- (d) the authority receiving the notification will inform the various enforcement departments (e.g. Buildings Department and Fire Services Department etc.) to conduct suitable inspections. Failure to comply with the relevant guidelines or contravention of the relevant fire and building regulations will be subject to prosecution under existing legislation where Fire Hazard Abatement Notices were issued;
- (e) under this option, we can require the operators to comply with certain conditions to minimize the chances of ICSCs being used for undesirable/illegal activities. Examples of such conditions are "restricted hours for young patrons – say unaccompanied children below the age of 16 be denied admission after 10 p.m.", "premises should be brightly lit", "there should not be wall-to-wall partitions within the premises", and "operators should install devices to screen off violent, pornographic or gambling websites" etc. Failure to comply with such conditions may result in suspension of business or in more serious cases, withdrawal of the notification acknowledgement to prohibit the operator from continuing business. Detailed arrangements will need to be worked out at a later stage;
- (f) in case an ICSC is operated as a membership club, the operator is required to obtain a Certificate of Compliance (CoC) under the Clubs (Safety of Premises) Ordinance before operation commences. The fire and building safety requirements under the above Ordinance needs to be complied with before a CoC can be issued to the operator of the clubhouse; and
- (g) suitable powers of inspection by enforcement departments would be provided as appropriate.

11. Legislative amendments will be required to provide backing for the proposed notification system. Based on our observations on the existing mode of operations of ICSCs, the main problem with ICSCs is that they might become breeding grounds for various undesirable or illegal activities if they are totally unregulated. There can also be potential building and fire safety risks. With a notification system in place, ICSC operators are required to notify the authorities so that we could make sure that public safety requirements are fulfilled in these premises and operating conditions will also be imposed to make sure that the environment of these ICSC premises would not be easily succumbed to the influence of bad elements. For these reasons, Option C is our preferred option.

12. Irrespective of which regulatory model is to be adopted in the end, it is necessary to define clearly ICSCs to eliminate any loopholes that some AGCs may use to evade the current licensing controls over them by disguising as ICSCs. We also do not intend to catch those establishments such as hotels' business centers/small cafés where the provision of Internet surfing is not their core business. As such, we do not plan to regulate establishments where less than ten computers are installed for internet usage. These issues have to be carefully considered as we proceed.

Amusement Game Centres

13. The Amusement Game Centres Ordinance was enacted in 1993 to primarily regulate the operation of conventional AGCs where playing of video game machines is their sole business. At a recent meeting held with the Licensed Amusement Game Centres Association (LAGA), its representatives had requested relaxation of some of the licensing conditions or administrative practices in view of changing circumstances and business environment. Some of these requests coincided with the recommendations of a study by the Management Services Agency previously conducted under the auspices of the Business Advisory Group(BAG). Currently, there are 413 adult AGCs (for people aged 16 years or over) and 25 children's AGCs (for those aged under 16) licensed in Hong Kong. Taking into account the advancement in technology and changing business environment, we are considering relaxing the following licensing conditions and administrative practices for AGCs:-

- (a) to remove the requirement that new AGCs can only be located in solely commercial buildings and hence to allow operation of AGCs in the commercial portion of composite commercial-

cum-residential premises provided that there are separate entrances for the commercial and the residential sections;

- (b) to relax the restriction on operating hours for adult AGCs; e.g., to allow adult AGCs to extend closing hours from 12:00 midnight to 2:00 a.m.; however, these adult centres will continue to be subject to the noise control requirements;
- (c) to allow AGC operators to offer non-cash prizes as long as this does not contravene the Gambling Ordinance. To safeguard public interest, AGC operators will be required to obtain an Amusement With Prizes Licences under the Gambling Ordinance, which is at present issued only to premises licensed under the Places of Public Entertainment Ordinance;
- (d) to remove the requirement that no person in school uniform is allowed in adult AGCs. There have been criticisms that such a restriction does not really serve any real purpose. We are prepared to listen to different views on this proposed relaxation;
- (e) to remove the requirement (the 100-metre rule) that an adult/children's AGC cannot be established within a radius of 100 metres of an existing AGC; However, we have reservations on the suggestion to remove the requirement that an adult/children AGC cannot be established within a radius of 100m from an educational institution; and
- (f) to reduce the licence fee of AGCs by removing the deterrent element embedded in the existing licensing fee resulting in an approximate 29% decrease in licensing fees per machine. At present, the licensing fees per machine for AGC is \$920 a year. Given today's circumstances and financial climate, the deterrent element might be difficult to justify. This proposal, if implemented, would require amendment to the Amusement Game Centres (Fees) Regulation.

Family Entertainment Centres

14. Family Entertainment Centres(FECs) are entertainment centres with facilities and games for the enjoyment of families, groups and persons of different age. In recent years, centres for family entertainment housing video games, mechanical rides, virtual reality electronic games and ancillary facilities, such as children's play areas, food corners and souvenir shops have become popular overseas. These centres are generally big scale operations and age restrictions do not normally apply to these establishments. We studied the feasibility of licensing FECs within the existing legislative and licensing framework in early 1997 and consulted the trade on this preliminary view. The LAGA had then objected to the proposed introduction of FECs.

15. Though there seems to be a demand for such centres in other countries, we do not see a similar trend in HK yet. We propose that we continue to prepare the groundwork for the establishment of such centres and re-assess the situation in light of developments following the relaxation of licensing conditions for AGCs.

Way Forward

16. Apart from seeking views of this Panel, in view of likely community interest in the subject, we shall consult the District Councils and relevant parties including the trade on the regulatory options for ICSCs and possible relaxations of the licensing conditions for AGCs before a decision is made.

Home Affairs Bureau
10 July 2002