

## **Legislative Council Panel on Commerce and Industry**

### **Government Electronic Trading Services (GETS)**

#### **Introduction**

This paper briefs Members on the measures taken by Government to maintain fair competition between the two GETS service providers.

#### **Background**

2. GETS refer to the front-end services of electronic submission of Government-related trade documents. Specifically, the services include receiving and verifying electronic data from one or more trader(s) or carrier(s); transmitting such data to the Government for further processing; collecting Government fees; relaying Government enquires and traders/carriers' replies; and broadcasting Government trade information to traders/carriers, etc.

3. A GETS service provider has to abide by prescribed technical specifications (e.g. IT and workflow specifications) and performance indicators (e.g. timelines for transmitting data among different parties) as set out in the service agreements.

4. GETS were provided by the Tradelink Electronic Commerce Ltd. (Tradelink) under an exclusive franchise before the end of 2003. In 2001, the Legislative Council Commerce and Industry Panel gave its support to the Administration to invite new service providers to provide GETS from 2004, while at the same time to negotiate with Tradelink with a view to securing Tradelink's continued services beyond 2003.

5. Accordingly a tender exercise<sup>1</sup> was launched in 2002, leading to the signing of a service agreement between the Government and Global e-Trading Services Ltd. (Ge-TS) in March 2003, for the latter to provide GETS for trade declarations (TDEC) and dutiable commodities permits (DCP) from 1 January 2004 to 31 December 2008. This was reported to the Commerce and Industry Panel in April 2003.

6. In December 2003, we concluded service agreements with Tradelink for the latter to provide GETS for TDEC, DCP and cargo manifests (except road mode) (EMAN) from 1 January 2004 to 31 December 2008; and to provide GETS for restrained textiles export licences (RTEL), production notifications (PN), certificates of origin (CO) and textiles trader registration scheme notifications (TTRS) from 1 January to 31 December 2004<sup>2</sup>. This was reported to the Commerce and Industry Panel in February 2004.

7. Ge-TS's TDEC services were launched on 1 January 2004 as scheduled, and its DCP services will be launched in July 2004, instead of March 2004 as originally planned (the revised schedule was accepted by the Government). Except for some minor teething technical problems at the outset, Ge-TS's TDEC services have been operating smoothly. Tradelink continues to provide services for seven trade documents from 1 January 2004. The Government holds regular meetings with the two service providers to ensure that all the services are provided in accordance with the terms in the respective service agreements.

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<sup>1</sup> It called for proposals to provide TDEC services as a mandatory requirement, and EMAN and DCP services as optional provision. RTEL, CO, PN and TTRS were not included as these documents were likely to be significantly affected by the abolition of quota restrictions on Hong Kong in 2005 under the WTO Agreement on Textiles and Clothing, and their future requirements were under review.

<sup>2</sup> The service agreements with Tradelink for RTEL, PN, CO and TTRS was for one year only since RTEL, PN and TTRS are exclusively and CO is predominantly related to textiles goods. Whether, with the abolition of the global textiles quotas from January 2005, these documents need to be retained and, if so, whether they should be retained in the existing form, have yet to be decided. The agreement signed in December 2003 for these services is thus for one year only covering up to end 2004. The arrangements from January 2005 for these documents, and the corresponding GETS, are being considered.

## **Competition in the GETS market**

8. The objective of opening up the GETS market is to introduce into the market competition in price, quality of service, and development of value-added services to the benefit of the trading community. To achieve this over-riding objective, our approach in regulating the GETS market consists of several key elements.

9. Firstly, all service agreements are signed on a non-exclusive basis. Thus, the Government has the right to introduce new service provider(s) any time for the provision of GETS in respect of any individual trade document if there is a need to do so (e.g. if there is collusion among service providers to the detriment of the trading community).

10. In addition, the contract period of the service agreements is relatively short. All the service agreements are of five-year duration (except the ones for RTEL, CO, PN and TTRS which are for one-year only because of the review of the textiles control regime). If an individual service provider's performance is not entirely satisfactory, the Government may, apart from giving feedback to the concerned service provider through regular meetings, consider not to renew the service agreements with that service provider when the current agreements expire.

11. To ensure that there will be genuine competition among the service providers, there are prohibitions against cross-ownership among the service providers.

12. To ensure that in the actual day-to-day operations, the service providers will have the maximum flexibility to respond to changing market situations to compete with each other, as long as the service providers abide by the ceilings they have committed for their service charges, the service providers are free to adjust their prices and marketing strategies to compete with each other, in order to maximise the benefits competition may bring to the trading community.

13. As an additional safeguard to the trading community, if at any time during the contract period, all other service providers have withdrawn from providing any specific service resulting in a service provider becoming the only provider of that service, this service provider will adopt the then prevailing prices and discount packages for that service as the ceiling for a specified period of time within which the Government could complete a new tender exercise for appointing new operator(s) and the operator(s) could launch the concerned service.

14. A service provider should not engage in any act which will prevent, restrict, discourage or restrain competition in relation to the provision of the GETS. If in the opinion of the Government, a service provider has engaged in any such conduct, the Government may require the concerned service provider to cease such conducts. The service provider may, if it so wishes, make representations to the Government. If the Government is not satisfied with the representations and the differences cannot be resolved by mutual consultation within a prescribed timeframe, either party may institute legal proceedings.

15. To ensure that a trader has a genuine choice among the service providers, service providers are required to make each service independently available for subscription and publish its service charges.

16. The service providers also have to supply information which the Government may reasonably require to ensure their compliance with the provisions of the service agreements.

17. All the measures in paragraphs 9 to 16 above have been agreed and incorporated in the service agreements signed with Tradelink in December 2003. Some of these measures (paragraphs 13 to 16 above) were not included in the agreement we signed with Ge-TS in March 2003. We have accordingly proposed to Ge-TS in January 2004 that a supplemental agreement on such terms should be signed. Ge-TS has recently replied that although it recognizes the importance of instituting safeguards to ensure fair competition, it takes the view that the terms which we have proposed are not sufficient mainly because they have not spelt out particular behaviours which might be practised by a “dominant player” and the controls applicable to these behaviours. We will continue to discuss with Ge-TS in this regard.

18. We wish to point out that our purpose of introducing pro-competition safeguards is to ensure that the process of competition is safeguarded. Our main concern is to guard against abuse by (which may take many different forms to the detriment of fair competition) a player of its market power rather than to provide for a category of “dominant players”; and identify the possible anti-competitive practices that might be undertaken by a player for special control.

19. So far, we have received one complaint from a GETS service provider about anti-competitive practices. We are looking into the matter and will take action as appropriate.

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