



民主黨立法會議員秘書處
SECRETARIAT OF LEGISLATIVE COUNCILLORS OF THE
DEMOCRATIC PARTY

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立法會
內務委員會主席
劉健儀議員

劉主席：

關於要求政府出示數碼港相關資料事宜

就著數碼港計劃是否牽涉利益輸送事宜，工商及科技局局長曾俊華先生曾於本年2月2日出席資訊科技及廣播事務委員會特別會議作出解說，並於當日早上向委員會提供政府與前盈科拓展集團就數碼港計劃互遞的一些信件及文件。

儘管如此，我們認為政府的解釋和所提交的資料，仍未能澄清事件中多項疑點。另外，當日會上有議員曾要求政府公開更多資料，以求釐清事實，惟在席官員拒絕。我們認為，政府此舉實在令公眾無法了解整件事情的真相。

就此，本人曾在2月2日致函政務司司長曾蔭權先生，要求政府在2月14日或之前提交相關資料，曾司長已於2月8日書面回覆本人，表示不能公開政府內部會議及行政會議議事的紀錄（有關本人的信件和曾司長的回覆可見附件）。

因此，本人希望立法會內務事務委員會，就要求政府公開更多有關決定推行數碼港計劃的資料一事，達成共識，並獲立法會授權，引用《立法會(權力及特權)法例》，著令政府出示相關文件。

立法會的同事們可能對政府提交那些資料有不同的要求，然而，本人則希望政府能出示下列資料，而有關資料是包括政府所管有或控制的任何文據、簿冊、紀錄或文件。

現列出本人認為政府需要出示的資料：

1. 有關政府指在多年前已經構思數碼港計劃的資料¹。
2. 當政府收到盈科集團(下稱“盈科”)提出在香港發展數碼港的建議後，決定於 1998 年 11 月委託安達信企業諮詢部就數碼港計劃進行策略性評估的資料。
3. 政府與盈科商討數碼港計劃的資料，包括各級政府官員與盈科會面的會議紀錄及相關文件。
4. 於 98 年 8 月至 99 年 5 月，政府內部討論及跟進數碼港計劃的資料，當中包括前資訊科技及廣播局局長於 99 年 1 月 14 日致予盈科信中，所指的工作小組的所有文件。
5. 行政會議自 98 年 8 月至 99 年 5 月期間，有關討論數碼港計劃的資料。
6. 由 98 至 99 年的兩年內，行政長官與盈科主席李澤楷先生就數碼港計劃事宜會面的資料。
7. 任何關於政府放棄規定盈科為數碼港作出租用保證的資料。

就有意見擔心公開資料會涉及商業機密和妨礙官員日後坦率討論的事宜，本人認為，當政府公開資料的時候，可將涉及商業機密和官員的名字刪去。事實上，這種做法亦有先例，立法會曾經就新機場的運作事宜，成立了「調查赤立角新香港國際機場自 1998 年 7 月 6 日開始運作時所出現的問題的原委及有關事宜專責委員會」，本人亦曾參與該委員會的工作，當時有關當局向委員會提交的資料當中，涉及商業的敏感資料亦已刪除。

因此，本人謹希望於 2 月 18 日的內務委員會會議加入議程，討論要求政府出示數碼港計劃的資料，並就有關事宜作出決定。

謝謝 閣下對此事的垂注！

立法會議員
李永達
2005 年 2 月 15 日

¹ 根據星島日報 1999 年 3 月 4 日的報導，當時的財政司司長曾蔭權指數碼港計劃在多年前已經構思，惟一直沒有財團願意投資。

(This letter is available in Chinese only)



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香港特別行政區政府
政務司司長曾蔭權先生
香港中環下亞厘畢道
中區政府合署西座 12 樓

曾司長：

就數碼港事宜 要求政府提交更多資料

就著數碼港事件是否牽涉利益輸送事宜，本年 2 月 2 日，工商及科技局局長曾俊華先生，曾出席資訊科技及廣播事務委員會特別會議，向議員解說有關問題，並提供相關資料。

對於政府的解釋及所提交的資料，民主黨認為並無說服力，而且，當民主黨的議員要求政府披露更多的資料，以協助釐清真相時，在席官員也拒絕公開，民主黨認為，這樣只是令事情產生更多的疑團。

因此，民主黨將會致函 閣下，要求政府提交下列兩部份的資料：

第一部份

1999 年 1 月 26 日，當時的資訊科技及廣播局局長鄭其志在一份備忘錄中，提出了 5 個很重要的問題，當中包括：

- (a) 為何是科拓展集團？
- (b) 為何不是公開招標？
- (c) 為何選擇鋼線灣？
- (d) 為何是以發展物業的方式支援數碼港發展？
- (e) 為何是這個行業？

到了當年 2 月 11 日，由資訊科技局局長鄭其志署名向盈科集團發出的信件中，顯示政府已接受數碼港的發展方式。在短短十五日間，鄭其志局長已由疑問，變為完全認同在不公開招標的情況下，由盈科在網線灣以物業發展的方式發展數碼港。

就此，我們希望政府提供以下資料予立法會，包括文件、來往書信及會議紀錄，以解答下列問題：

1. 在 1 月 26 日至 2 月 11 日的 15 日內，發生了什麼事情，令政府的態度大幅轉變？
2. 行政會議自 98 年 8 月至 99 年 5 月期間，曾在哪次會議討論數碼港事件？
3. 行政長官董建華於 98 至 99 年間，曾與盈科主席李澤楷見面討論數碼港計劃共多少次？有多少次是單獨見面，有多少次是有官員陪同？當中的談話內容為何？
4. 上述決定由政府內哪位最高層的官員最終決定？是否由董建華最終作出決定？

第二部份

根據政府於 1999 年 4 月 29 日向立法會資訊科技及廣播事務委員會和規劃地政及工程事務委員會提交的文件，政府表示按政府與盈科在 1999 年 2 月就數碼港的發展綱要達成協議後，雙方所簽訂的意向書，盈科將會至少租用 7000 平方米的第一期辦公地方，而若數碼港部分的其餘面積在建築工程完成後 36 個月內仍未有其他公司租用，則盈科將會在第一期計劃完成後的首五年內租用不少於 20% 但不多於 50% 的總辦公室面積。然而，按政府於 2000 年 5 月向立法會提交的資料摘要，政府與盈科於 2000 年 5 月 17 日簽立數碼港計劃協議，放棄規定盈科作出租用保證，不在協議內訂定盈科租用地方的條款，並堅決相信此安排對政府有利。

就此，我們也希望政府提供以下資料予立法會，包括文件、來往書信及會議紀錄，以解答下列問題：

1. 政府於何時決定撤回上述保障政府利益的條款？政府有何理據堅決相信放棄在協議內訂立租用保證條款是對政府最為有利？
2. 上述決定有否經行政會議討論？如有，行政會議於哪次會議曾討論這項決定？
3. 由誰人以何種方式先提出上述安排？（包括以口頭、書面或其他方式提出的要求）

4. 在政府內，哪位最高層的官員(包括行政長官在內)最終決定提出/接納上述安排？
5. 政府提出/接納上述安排的理據是什麼？

我們認為，如政府能提供以上兩部份的資料，將更有助公眾了解事情的真相。

因此，民主黨要求政府於 2005 年 2 月 14 日或以前，能將相關的文件提交予立法會。

如果政府仍然不允披露有關資料，民主黨立法會議員將考慮在立法會提出決議案，引用<<立法會(權力及特權)法例>>，要求政府提交有關文件。

謝謝 閣下對此事的垂注！

民主黨主席
李永達
2005 年 2 月 2 日

7 February 2005

The Hon Lee Wing-tat
Chairman
Democratic Party
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Request for further information on the Cyberport Project

Thank you for your letter of 2 February 2005.

First of all, let me assure you that, in response to the request of the Legislative Council (LegCo) Panel on Information Technology and Broadcasting (ITB Panel), the Administration has provided, in full, **all** the correspondence and documents exchanged between the Government and the then Pacific Century Group (PCG) on the Cyberport development during the period September 1998 to March 1999. This was contained in the bundle of paper delivered to ITB Panel on 2 February 2005. There is nothing more.

As you appreciate, records of internal government meetings and deliberations of the Executive Council (ExCo) belong to a different category of paper, which in the public interest cannot be released. It is established Government policy not to disclose any such records. If we cannot assure the confidentiality of such records or discussions, the candour of discussions would be seriously impaired, thereby harming or prejudicing the operation of ExCo and of the Government, and ultimately the wider public interests.

However, in order to help you and all LegCo members understand more fully the backdrop, thinking and rationale behind the Government's decision in this subject, I shall endeavour to encapsulate them in answering your specific questions in two parts, reflecting as accurately as possible the essence of the Administration and ExCo's deliberations of the Cyberport project.

Part I

The decision to enter into a public-private partnership (PPP) with PCG in developing the Cyberport was based on the following considerations:

- (a) In 1998, the Hong Kong economy had suffered sharply in the wake of the Asian financial crisis and its aftermath. The territory was desperately in need of new drivers to boost not only economic growth but also her people's confidence. In response to this situation, the Government believed that Hong Kong should ride on the information age and augment its established strengths in information technology (IT) and tourism as a matter of urgency. After intensive deliberations and negotiations, the Administration announced in the 1999-2000 Budget its firm intention to undertake two special projects, namely the Cyberport and the Disney project. The Cyberport concept was premised on the strategic consideration of Hong Kong's competitive position both in the region and globally. The state of IT, telecommunications and broadcasting development in other cities was advancing rapidly upwards, and a global trend was firming up towards convergence of IT, telecommunications and broadcasting technologies and infrastructures. The Government believed that Hong Kong had an edge in developing information services and multimedia content creation. We should thus capitalize on the strengths of our sophisticated telecommunications network, strong intellectual property rights protection regime and well established service industries. The Cyberport provided an important infrastructure that was lacking in Hong Kong at that time; we needed it to form a strategic cluster of IT and related companies.

- (b) The Cyberport project was conceived when many of our regional neighbours had already built or were in the process of building their own integrated IT infrastructure. In view of the speed at which the IT sector was advancing and the efforts of practically all of our regional competitors in trying to carve out their corners in the market, Hong Kong had to race against time and put in place a state-of-the-art IT infrastructure as soon as practicable. There were also strong sentiments and overwhelming support in the IT sector in Hong Kong that we should expedite the completion of the Cyberport project. This sector regarded the Cyberport as an essential building bloc in the Government's overall IT strategy – Digital 21.
- (c) To meet the specialized needs of IT companies, the Government considered that the Cyberport development should rely on the expertise and entrepreneurial spirit of the private sector. In order that Hong Kong might make a head-start in this project as early as possible, the Government had to secure external help in articulating the project profile, detailed design and hardware specifications, etc of the Cyberport. Quite simply, there was insufficient expertise within the Government at that time to plan and build a Cyberport that would meet the high specifications of such a project. It was in these circumstances that the Government decided to commence negotiation with PCG, the originator of the Cyberport concept.
- (d) PCG was one of the leading players in the IT sector based in Hong Kong. It was best positioned to develop the project. Should it be allowed to undertake the project, PCG also pledged to attract quality tenants to the Cyberport by mobilizing its extensive network of partners and suppliers in the field.
- (e) Most of all, PCG was willing to bear all the risks involved in project development. The Government regarded this as a significant point, given the volatilities across the market at the time.

Let me now turn to the question of the so-called five “fundamental issues to be addressed”, listed at the end of the discussion note prepared by the then Information Technology and Broadcasting Bureau (ITBB) and handed over to PCG on 26 January 1999. The main purpose of that discussion note was to put forward a possible framework for implementing the Cyberport project. The final section of the discussion note served to remind PCG the need to address the five fundamental issues, which had been mutually resolved but would most likely be the primary concern to the public, in devising an implementation plan. This resulted in PCG’s letter dated 27 January 1999 proposing a scheme to implement the Government’s framework.

Before the Government handed over the discussion note to PCG on 26 January 1999, we had considered these five issues thoroughly and, for reasons (a)-(e) above, had clearly decided that the negotiation with PCG should continue on the basis of a PPP model. The decision to take forward PCG’s proposal as a matter of priority is evident from the then Secretary for Information Technology and Broadcasting’s (SITB) earlier letter dated 14 January 1999 to PCG, which states that:

“The HKSAR Government, having considered your proposal and taken initial advice on the advantages a Cyberport may bring for Hong Kong, has decided to take forward consideration of the proposal as a matter of priority, with a view to completing the work necessary for a decision on the proposal and formal announcement thereof as soon as possible.”

It is thus incorrect to infer that there was a U-turn in the Government’s thinking during the 15-day period between 26 January and 11 February 1999. By mid-January 1999, all leading players in the Administration were agreed that the fundamental issues of the Cyberport project had been resolved and that the project should, subject to ExCo’s endorsement and approval by LegCo’s Finance Committee of the necessary infrastructure, proceed under a PPP arrangement. There was **no** internal meeting, negotiation or change of mind on the part of any leading official relating to this project recorded on file during the period 26 January to 11 February 1999. This was naturally the case as the Administration was simply waiting for PCG’s response to the framework put forward on 26 January 1999, for there was little else the Administration should do during this period.

Part II

Under the Letter of Intent (LOI) signed between the Government and PCG on 2 March 1999, PCG undertook to occupy at least 7,000 sq. m. of office space in Cyberport Phase I and to take up extra space (not less than 20% and not more than 50%) if the Cyberport did not attract enough tenants as envisaged.

During the negotiations on the Cyberport Project Agreement, it became clear that PCG considered that its proposed take-up guarantee would give it an automatic right to occupy “not less than 20%” of the office space in Cyberport under a long-term lease and on concessionary terms. Had we agreed to keep this guarantee in the Project Agreement, we would have given a long term commitment to PCG, and would have been left with too little space to accommodate the over 120 companies which had registered interest in becoming Cyberport tenants as at May 2000. It would also have been perceived to be excessive and over-dominating for one single company to occupy 20% to 50% of the space available in a Government-owned IT infrastructure. In the light of these considerations, the Government considered that dropping PCG’s take-up guarantee would be preferable, and asked PCG to apply for tenancy in the same way as other interested companies, and all such applications would be subject to the approval of a committee comprising local and international experts. PCG agreed to this.

On 17 May 2000, the Government promptly reported to LegCo in a formal Brief of the decision to drop the PCG’s proposed guarantee from the Project Agreement. There was no dissent noted. The ITBB officials later highlighted this point again at the LegCo ITB Panel meeting held on 12 June 2000, and none of the Members present had queried the decision.

As at January 2005, PCG has taken up some 8,000 sq m. in Cyberport Phase I and II, which is equivalent to 8% of the total office area available in all phases. It is the largest tenant at the Cyberport at present.

The Government's decision to drop the take-up guarantee was taken during the dot.com boom and at a time the interest in Cyberport was overwhelming. Moreover, regardless of the occupancy rate in future, it would have been unreasonable to allow PCG to occupy up to 50% of the lettable space available at Cyberport.

(Donald Tsang)
Chief Secretary for Administration

c.c. All LegCo Members
Mr John C Tsang, Secretary for Commerce, Industry and Technology