

立法會
Legislative Council

LC Paper No. CB(1)1986/04-05
(These minutes have been seen
by the Administration)

Ref : CB1/PL/ITB/1

Panel on Information Technology and Broadcasting

Minutes of meeting
held on Monday, 13 June 2005, at 2:30 pm
in Conference Room A of the Legislative Council Building

- Members present** : Hon SIN Chung-kai, JP (Chairman)
Hon Albert Jinghan CHENG (Deputy Chairman)
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Howard YOUNG, SBS, JP
Hon Timothy FOK Tsun-ting, GBS, JP
- Member absent** : Dr Hon LUI Ming-wah, JP
- Public officers attending** : Agenda Item IV

Mrs Betty FUNG, JP
Deputy Government Chief Information Officer
(Planning and Strategy)

Ms Subrina CHOW
Assistant Government Chief Information Officer
(IT Policy)

Agenda Item V

Mrs Marion LAI, JP
Deputy Secretary for Commerce, Industry and
Technology (Communications and Technology)

Mr K S WONG
Assistant Director of Telecommunications (Support)

Clerk in attendance : Miss Polly YEUNG
Chief Council Secretary (1)3

Staff in attendance : Ms Debbie YAU
Senior Council Secretary (1)1

Ms Sharon CHAN
Legislative Assistant (1)6

Action

I Confirmation of minutes and matters arising

LC Paper No. CB(1)1723/04-05 -- Minutes of meeting held on
9 May 2005

The minutes of the meeting held on 9 May 2005 were confirmed.

II Paper issued since last meeting

2. Members noted that no paper had been issued since last meeting.

III Date and items for discussion for next meeting

LC Paper No. CB(1)1725/04-05(01) -- List of outstanding items for
discussion

LC Paper No. CB(1)1725/04-05(02) -- List of follow-up actions

3. Members noted and agreed that the Panel would discuss the following items proposed by the Administration at its next meeting to be held on 11 July 2005:

- (a) Consultation exercise on the regulation of Internet Protocol (IP) Telephony;
- (b) Proposed Anti-spam legislation; and
- (c) Domestic/private pirated viewing of subscription television programmes.

4. Members noted that the Administration had proposed to defer the item on "Broadcasting Services of Radio Television Hong Kong" originally scheduled for discussion in July 2005 to October/November 2005. In reply to the Chairman,

the Deputy Secretary for Commerce, Industry and Technology (Communications and Technology) (DSCIT(CT)) explained that since the Administration would review the priorities of its public works proposals in the third quarter of 2005, it had proposed to defer discussion of the item in order that Panel members could also be updated on the status of the proposed Broadcasting House. Members noted and agreed to the change.

IV Promoting the Development of the Digital Entertainment Industry in Hong Kong – Strategy and Measures

LC Paper No. CB(1)1725/04-05(03) -- Information paper provided by Administration

LC Paper No. CB(1)1773/04-05(01) -- Powerpoint presentation material (*tabled and subsequently issued on 14 June 2005*) provided by Administration

5. The Chairman drew members' attention that according to paragraph 16 of the Administration's paper (CB(1)1725/04-05(03)), the Innovation and Technology Commission would seek funding approval of the Finance Committee in June 2005 for funding the establishment and first three-years' operation of the Digital Entertainment Incubation cum Training Centre (DEITC) under the Innovation and Technology Fund. He informed members that the Panel on Commerce and industry had been consulted on the relevant funding proposal on 17 May 2005 in the context of the new framework for innovation and technology development.

6. At the invitation of the Chairman, the Deputy Government Chief Information Officer (Planning and Strategy) (DGCIO(P&S)) highlighted the rapid development of the digital entertainment industry in Hong Kong in the past two years. With the aid of power-point presentation, the Assistant Government Chief Information Officer (IT Policy) (AGCIO(IT Policy)) briefed members on the strategy and programme of initiatives for promoting the development of the digital entertainment industry in Hong Kong. In gist, she outlined the current profile of the digital entertainment industry, its strengths and challenges, and introduced the Administration's proposed five-pronged strategy for supporting the industry in 2005-06.

7. Mr Jasper TSANG enquired about the profiles of the digital entertainment industries in other Asia-Pacific economies as well as the initiatives and support measures provided by these governments to support the industry. In reply, AGCIO (IT Policy) undertook to provide supplementary information on the industry profiles of Taiwan and South Korea. AGCIO (IT Policy) further said that the Administration had drawn on the experience of more advanced economies in the Asia-Pacific region, including South Korea, Japan, Taiwan, Singapore and Thailand in formulating some of the proposed initiatives for supporting the local digital entertainment industry. For example, from the

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experience of South Korea and Taiwan, the Administration recognized the importance of nurturing promising enterprises and professional talents in building up a critical mass in the digital entertainment industry and sustaining its growth. As such, the Government had proposed to fund the establishment of DEITC having regard to the operational experience of the Korean Game Development Institute, which was set up about five years ago and had since nurtured over a hundred game companies. On the other hand, with reference to the Xbox Games Incubation Programme organized by the Digital Content Institute in Taiwan, the Administration had sponsored the Xbox Games Incubation Programme, which was launched in collaboration with Microsoft and the Cyberport in October 2004 with a view to nurturing local talents in Xbox games development. All in all, the Administration would continue to implement initiatives to spearhead and support the growth of the local digital entertainment industry.

8. Mr Jasper TSANG observed that South Korea developed about several hundreds of electronic games a year vis-à-vis less than ten in Hong Kong. He considered that Hong Kong was by no means a competitor to South Korea as the latter had outperformed Hong Kong significantly in its development of the games industry. He added that South Korean games companies had now become a major market player in the Mainland.

9. While expressing his support for the Government's strategy to promote the development of the digital entertainment industry, Mr Albert CHENG shared with Mr TSANG that Hong Kong should not regard itself as a comparable competitor of South Korea, which was in fact the market leader, in the development of digital games.

10. In response, AGCIO (IT Policy) agreed with the members that South Korea was a very strong market player and had produced many of the world's top game software developers. She said that South Korea had begun to nurture promising enterprises and professional talents in digital entertainment some five to six years ago and many of these companies had become very successful in the games industry. In fact, about half of the ten most popular online games in the Mainland market were developed by South Korean companies. Recently, the Mainland Government had taken steps to promote the development of more online games by Chinese companies on the Mainland and in the Hong Kong, Macau and Taiwan regions over the next five years through a "Chinese Online Games Publishing Scheme". In light of such development, AGCIO (IT Policy) pointed out that there was still room for Hong Kong companies to catch up and take up a greater share in the Mainland games market. She assured members that the Administration would work with relevant organizations and the Digital Entertainment Industry Support Centre to facilitate the entry of local companies into the Mainland market.

11. In this connection, DGCIO(P&S) supplemented that among the three broad areas under digital entertainment, Hong Kong had made significant strides in the development of animations and digital effects in films. Local companies

were now able to secure contracts from North America for the production of animations for television programmes and digital effects for Hollywood films. While Hong Kong had a slightly belated start in games software development, DGCIO(P&S) highlighted that one of the Administration's key initiatives was to nurture, through the DEITC which would focus initially on games software development, about 45 local companies in the next two to three years, in the hope that around 10 of them would become successful games software developers in the region.

12. Recalling the Panel's overseas duty visit to South Korea in September 2002, Mr Howard YOUNG pointed out that South Korea had made big strides in promoting its games industry. On measures to facilitate the development of games software, Mr YOUNG considered that feedbacks from game users would help enhance the marketability of new games products. He therefore suggested that the Administration might consider allowing local games companies concerned to set up booths for newly designed games at the proposed DEITC for the trial of interested players who would also be requested to provide consumer feedbacks before these games were formally launched in the market.

13. DGCIO(P&S) pointed out that the proposed DETIC at Cyberport aimed to nurture up to 45 local high-growth start-up companies to develop digital entertainment products and services, with the initial focus on games software development. The centre would provide these companies with a cultivating environment and focused professional training courses and seminars to help them develop commercially viable products and services with sustainable business model in the digital entertainment industry. Incubatees could also leverage on the expertise and facilities of the Digital Media Centre and the iResource Centre at Cyberport to enhance their capability in developing digital entertainment products and services.

14. AGCIO (IT Policy) further said that the Administration fully acknowledged the importance for games developers to understand the needs and tastes of the consumers in developing their games products. As such, the Administration would co-organize the Cyberport Games Marathon with the Cyberport over two consecutive weekends in early July 2005 (i.e. 1 -3 July and 9 -10 July) to promote high-quality and healthy locally produced games to the general public. She briefly introduced the details of the event in which members of the public would have the chance to try out in person the latest games and edutainment programmes produced by local companies.

15. While appreciating the Administration's effort in organizing the event, Mr Howard YOUNG recapped his suggestion that a standing arrangement should be put in place at the DEITC to facilitate the developers to test the consumer markets of their newly designed games and to collect feedbacks from potential users before launching their games products in the market. DGCIO(P&S) took note of Mr YOUNG's suggestion for further consideration with the Cyberport.

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16. Summing up, the Chairman said that the Panel supported the five-pronged strategy adopted by the Government for supporting the digital entertainment industry.

V Spamming arising from the use of Interactive Voice Response System (IVRS) technology

LC Paper No. CB(1)1725/04-05(04) -- Information paper provided by Administration

LC Paper No. CB(1)1052/04-05(06) -- Information paper on "Proposals to contain the problem of unsolicited electronic messages" provided by Administration

LC Paper No. CB(1)1197/04-05 - Minutes of meeting of the Panel
- on Information Technology and Broadcasting held on 14 March 2005 (paras. 17 – 27)

17. At the invitation of the Chairman, DSCIT(CT) briefed members on the recent trend of using IVRS technology to send out unsolicited pre-recorded marketing messages. She reported that from January to April 2005, the Office of the Telecommunications Authority (OFTA) received 427 enquiries on how to deal with telephone cold calls and unsolicited promotional calls generated by machines. In view of the increasing spamming problem using IVRS technology, the Administration intended to cover such unsolicited calls in the legislation to be introduced under the "STEPS" campaign which had been devised to tackle the problem of unsolicited electronic messages (UEMs).

Severity of the problem

18. Mr Jasper TSANG was very concerned about the problem of spamming arising from the use of IVRS because he had received many such complaints. To better understand the severity of the problem, Mr TSANG sought further information on the types and frequencies of machine-generated unsolicited calls received by those who had made enquiries at OFTA. He considered that the information could help provide a basis for the introduction of anti-spam legislation.

19. In response, the Assistant Director of Telecommunications (Support) (AD/Tel(S)) pointed out that while a majority of enquiries/complaints on UEMs received by OFTA in 2004 related to unsolicited emails or junk fax, there had been an increase recently in the number of enquiries on how to deal with unsolicited promotional calls generated by machines. OFTA would continue to collect the relevant data and analyze them.

Scope of anti-spam legislation

20. Given that some of the unsolicited calls were made by non-commercial entities to obtain information or views of the called parties on social issues, Mr Jasper TSANG was concerned about the scope of the proposed anti-spam legislation and whether all unsolicited calls utilizing IVRS technology would be covered, irrespective of their purpose.

21. In response, DSCIT(CT) advised that whether the proposed legislation would cover UEMs of a commercial nature only or all UEMs was one of the subjects to be considered in drawing up the legislative proposals. The Administration's preliminary view was that it might not be inappropriate to target the proposed legislation at UEMs of a commercial nature only as they caused the most problems. In fact, she understood that anti-spam legislation in overseas jurisdictions covered only commercial UEMs. However, DSCIT(CT) stressed that the Administration was still in the course of consulting different stakeholders on the overall legislative framework and would report further to the Panel at the next meeting in July 2005.

The option of "calling party pays"

22. Mr Howard YOUNG agreed that spamming arising from the use of IVRS technology on telephone networks caused much inconvenience to call recipients and they would incur airtime charges if they answered such calls on their mobile phones. They might even have to pay hefty roaming charges if they were outside Hong Kong. To cater for the needs of both the callers and the call recipients, Mr YOUNG enquired whether it was technically feasible to make the callers, instead of the call recipients, to pay the airtime/roaming charges thus incurred. He was of the view that the companies generating such calls would unlikely raise objection to this option because the charges could in fact be regarded as part of the companies' marketing expenses. Mr YOUNG also envisaged that call recipients might be more willing to answer the calls and provide feedback if no charge would be incurred against them in the process.

23. While appreciating Mr YOUNG's suggestion, AD/Tel(S) considered that pending the enactment of any anti-spam legislation, direct marketing companies would unlikely pursue this option because of the cost implication. Nevertheless, AD/Tel(S) undertook to consider the suggestion and explore if there were any means to encourage the calling parties of unsolicited calls to adopt the option at this stage.

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(Post-meeting note: According to the Administration, it is common arrangement in other economies that the called party pays the roaming charges, since the calling party may not be aware that the called party is roaming. However, at the network interconnection charging level, the Office of the Telecommunications Authority has proposed under the fixed-mobile convergence review that the current interconnection charging model whereby a mobile network pays for interconnection charges for

traffic both from and to fixed networks should be changed. Some mobile operators argued that the current fixed-mobile interconnection charging model has contributed to the spamming problem by telephone in Hong Kong. The relevant information has been circulated for members' reference vide LC Paper No CB(1)2284/05-06 on 29 September 2006).

24. The Chairman said that he had proposed this item for discussion ahead of the Administration's report on its proposed legislative framework because of the severity of the problem as reflected in the complaints he had received against spamming arising from the use of IVRS technology. While noting the Administration's intention to consider covering such unsolicited calls in the proposed anti-spam legislation under the "STEPS" campaign, the Chairman expressed doubt about the effectiveness of the legislative approach in curbing these calls. He considered that anti-spam legislation could only serve the wider purpose to prevent Hong Kong from becoming a safe haven sheltering illicit spammers and facilitate its co-operation with overseas jurisdiction with similar legislation in investigation and enforcement work against spammers. Unlike unsolicited emails the sources of which might be traceable through their internet protocol (IP) addresses, unsolicited phone calls were not readily identifiable because the caller might have blocked its number from display or recipients usually hung up right away without bothering about the identity of the calling party. As such, the Chairman was concerned that even a piece of anti-spam legislation was in place, its enforceability in respect of spamming arising from the use of IVRS technology was questionable. Besides, as some mobile phone users had correctly pointed out, they had already suffered loss in terms of airtime or even roaming charges notwithstanding that the calling party concerned could be traced and penalized. The Chairman therefore called on the Administration to consider additional regulatory measures to tackle the rampant problem. He referred to the "calling party pays" principle adopted by many jurisdictions worldwide and requested the Administration to consider revising the existing arrangements for interconnection charges between fixed and mobile networks. He understood that at present, for every call made from a fixed line to a mobile phone or vice versa, the mobile network operator paid an interconnection charge to the fixed network operator, which, in his view, amounted to a "subsidy" from the mobile network operators to the fixed network operators. He pointed out that under such an existing arrangement, direct marketing companies would be much inclined to make IVRS calls from their fixed lines as they would incur no additional cost other than the fixed monthly telephone charges.

25. In response, AD/Tel(S) stressed that the current settlement arrangement for fixed/mobile interconnection charges had been in place for years having regard to a number of historical factors. While it remained to be seen whether changes to the existing settlement arrangement for fixed/mobile interconnection charges would help curb the problem of unsolicited promotional calls, AD/Tel(S) advised that in an environment of growing fixed/mobile convergence, the Administration would also plan to review the fixed/mobile interconnection charging mechanism accordingly in due course.

26. The Chairman recalled that the current settlement arrangement for fixed/mobile interconnection charges was made in 1980's when the use of mobile phones was still not prevalent. Given the optimum penetration of mobile services currently, he considered that it was timely to revise the outdated charging arrangement to enable Hong Kong to also adopt the "calling party pays" principle. The Chairman believed that under this arrangement, the fixed network operators would take the initiative to monitor the use of their network capacity by certain direct marketing companies generating unsolicited calls and might consider increasing the charges on these companies for their high use. Anticipating that the subject matter would be highly controversial because of the stakeholders' interests involved, the Chairman enquired about the timetable in reviewing the arrangement for fixed/mobile interconnection charges.

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27. In response, DSCIT(CT) took note of the Chairman's concern and would consider his suggestion of devising additional regulatory measure on top of those under the "STEPS" campaign to address the problem of IVRS-generated spamming. DSCIT(CT) agreed with the Chairman that any change to the existing interconnection charges arrangement would involve a re-balancing of the interests of fixed network operators and mobile network operators. Therefore, a comprehensive consultation would be necessary before any decision could be made. On the timetable of the review, AD/Tel(S) said that it was the plan of OFTA to conduct the consultation within 2005. Given the scope and complexity of the issues involved, there might be a second round of consultation.

Conclusion

28. Summing up, the Chairman urged the Administration to take note of members' views and concerns related to spamming arising from the use of IVRS technology. He stressed that unlike recipients of unsolicited emails who might filter these emails with the aid of anti-spam software, telecommunications services consumers receiving unsolicited promotional calls generated by machines could hardly do anything to filter these calls. Hence, he reiterated his call on the Administration to devise suitable measures to tackle the problem.

VI Any other business

29. Members noted that in line with the practice in the past years, the Panel would present a report on its work in the 2004-05 session to the Council on 29 June 2005 in accordance with Rule 77(14) of the Rules of Procedure. The Clerk would circulate the draft report to Panel members for endorsement shortly. Members agreed to authorize the Chairman and the Clerk to revise the contents of the report in the light of subsequent developments, if any.

30. There being no other business, the meeting ended at 3:35 pm.

Council Business Division 1
Legislative Council Secretariat
29 September 2006