

立法會

Legislative Council

LC Paper No. CB(1)1803/04-05

Ref. : CB1/PL/ITB

Report of the Panel on Information Technology and Broadcasting for submission to the Legislative Council

Purpose

This report gives an account of the work of the Panel on Information Technology and Broadcasting during the 2004-05 session (up to mid June 2005) of the Legislative Council. It will be tabled at the Council meeting on 29 June 2005 in accordance with Rule 77(14) of the Rules of Procedure of the Council.

The Panel

2. The Panel was formed by a resolution passed by the Council on 8 July 1998 and as amended on 20 December 2000 for the purpose of monitoring and examining Government policies and issues of public concern relating to information technology, telecommunications, broadcasting and film services. The terms of reference of the Panel are at **Appendix I**.

3. The Panel comprises six members. Hon SIN Chung-kai and Hon Albert Jinghan CHENG were elected Chairman and Deputy Chairman of the Panel respectively. A membership list of the Panel is at **Appendix II**.

Major work

Telecommunications services

Internet Protocol (IP) Telephony

4. The Panel exchanged views with the Administration and deputations on regulatory issues relating to IP Telephony. Members noted the Administration's view that early finalization and implementation of the regulatory framework could enhance certainty, prevent unnecessary disputes and

help new investors make informed decisions. They also noted that while local Fixed Telecommunications Network Services (FTNS) or Fixed Carrier (FC) licensees could use any technologies, including IP technology, to provide telephony service as long as they complied with the conditions of their existing licences, Internet Service Providers were not allowed to offer IP Telephony services under their existing Public Non-exclusive Telecommunications Service licences. The Panel also considered views on whether or not IP Telephony services should serve as a substitute for traditional telephone service and be subject to the same obligations of FTNS or FC licensees.

5. While welcoming the development of new technologies, Panel members were keen to ensure that consumers' welfare should be adequately safeguarded. In particular, they considered that IP Telephony service providers should fully inform consumers of the functions, scope and limitations of their services, such as inaccessibility to emergency calls during power outage. The Panel urged the Administration to balance the needs of all stakeholders and would follow up the way forward for the regulatory framework.

Licensing framework for the deployment of broadband wireless access (BWA)

6. The Panel was briefed on the consultation exercise launched by the Telecommunications Authority (TA) on the licensing framework for deployment of BWA technologies, as well as TA's preliminary views on the subject. Noting that the 3.5GHz band was considered to be the most suitable licensed band for BWA deployment in Hong Kong, concern was raised as to whether the frequency band could be used to provide 3G mobile services at a spectrum utilization fee (SUF) which was likely to be lower than that currently payable by 3G mobile carrier licensees. The Administration's preliminary view was that BWA in Hong Kong should initially serve as a wireless extension of the conventional wire-line based fixed network service, rather than to be deployed for full mobile service.

7. On the pace of development of BWA in Hong Kong, the Panel noted that the necessary hardware support, such as notebook computers, based on the more popular standard used in the delivery of BWA services would not be available in the market until 2006. Meanwhile, the Administration planned to introduce the necessary subsidiary legislation in the 2005-06 legislative session with a view to assigning the BWA spectrum in the first half of 2006.

Licensing of mobile services and assignment of spectrum

8. When the Panel deliberated on the licensing of mobile services on expiry of existing licences for second generation (2G) mobile services, members noted the Administration's proposal to charge SUF on 2G licensees when they were issued new licences and to phase out CDMA and TDMA services after a three-year migration period ending in November 2008.

9. Members were concerned that 2G licensees would pose unfair competition to third generation (3G) licensees in future when technology

advancement would enable 2G licensees to provide services similar to those offered by 3G networks, but the level of SUF payable by 2G licensees was much lower than that payable by 3G licensees. They nevertheless noted the Administration's explanation that in due course (i.e. from the sixth licence year onwards), both 2G licensees and 3G licensees would be subject to the same SUF charging formula, i.e. 5% royalty over the licensee's network turnover.

10. During the Panel's consideration of the proposed assignment of the available spectrum in the 800MHz and 1 800 MHz bands to the existing mobile network operators (MNOs), members noted that TA had proposed to divide the available spectrum into six blocks for assignment to the six MNOs. As this spectrum assignment method was different from the one adopted in March 2002, members questioned the rationale for the change. The Administration explained that having regard to the market situation and the relative efficiency of the MNOs in utilizing their assigned spectrum, the currently proposed method could address the difficulties faced by Single-Band Operators. Members nevertheless urged for a clear policy objective so that a consistent method of allocating radio spectrum would apply. Some members considered that radio spectrum was a scarce public resource and should best be allocated through competitive bidding.

Unsolicited electronic messages (UEMs)

11. The Panel followed up the outcome of the consultation exercise launched in June 2004 on proposals to contain the problem of UEMs. In principle, members welcomed the Administration's multi-pronged campaign consisting of strengthening existing regulatory measures, promoting the latest technical solutions, stepping up users' education, local and global partnership, and introducing anti-spam legislation.

12. Noting that the vast majority of spam mails originated from overseas, members enquired about the effectiveness of the proposed anti-spam legislation, as well as the enforcement experience overseas. The Administration advised that the anti-spam legislation, if enacted, would prevent Hong Kong from becoming a safe haven sheltering illicit spammers. It would also strengthen co-operation with overseas jurisdictions with similar legislation in the investigation and enforcement work against spammers.

13. Responding to members' concern on how junk fax would be dealt with, the Administration confirmed that it would strengthen industry co-operation to sanction recalcitrant senders of junk fax, as well as explore the feasibility of including unsolicited fax and even automated telephone calls in the proposed definition of "electronic message" in the anti-spam legislation.

14. In this connection, members stressed the need to ensure that the freedom of expression and free flow of information would not be hampered as a result of the introduction of statutory measures. The Administration noted members' concern and undertook to brief the Panel on the draft legislative framework before proceeding to draft the bill.

IT-related initiatives

2004 Digital 21 Strategy

15. The Administration's successive strategies for driving IT development in Hong Kong received ongoing attention by the Panel. Members were briefed on the progress on the implementation of the 2004 Digital 21 Strategy and the action plan for 2005.

16. On key initiatives to promote the adoption of e-business in the community, the Panel noted that in addition to generic promotional programmes, two sector-specific programmes had been rolled out to promote the adoption of e-business by small and medium enterprises (SMEs) in the travel industry and among medical doctors. Responding to concerns about the way forward, the Administration confirmed that similar programmes would be launched for the transport sector within the logistics industry and retail pharmacists and that it was the Administration's plan to launch around four sector-specific programmes each year. The Panel would keep in view future progress of the 2004 Strategy.

2004 Surveys on IT Usage and Penetration in the Household and Business Sector

17. In considering the findings of the two Surveys and their impact on policy formulation, members noted that the statistics provided useful reference for the Government in formulating strategies and initiatives to promote IT development and adoption in Hong Kong, in particular measures to bridge the digital divide and to enhance the IT capability of SMEs. At the Panel's request, the Administration had forwarded relevant Survey findings to the Commission on Poverty to follow up the problem of digital divide among disadvantaged groups. In response to members' concern about the future direction of the two Surveys, the Administration agreed to examine whether it was necessary to adjust the survey scope and the types of respondents in line with the Government's IT strategies and policy initiatives and with reference to the outcomes of similar surveys in other advanced economies.

IT Easy Link

18. The Panel followed closely the development of the IT Easy Link which was an IT support service jointly launched by the Administration and the Hong Kong Computer Society (HKCS) in June 2002 on a pilot basis to provide free advice to members of the community, as well as SMEs in the business sector, on general problems encountered in IT applications.

19. On the way forward for the scheme beyond June 2005 after it had been twice extended, members welcomed the proposal to set up an SME IT Support Centre to provide general IT advisory service to SMEs. Regarding the advisory service to the general community, some members considered that on account of its past success and relatively low annual recurrent cost at about \$4

million, the IT Easy Link Services should continue to receive funding support from the Government. The Administration was also urged to consider extending the transitional period of phasing out government funding to enable HKCS to secure sponsorship and maintain service continuity.

E-government

20. The progress of the E-government programme had been kept under periodic review by the Panel. Members noted that the focus of the next wave of E-government would be on "integrating and transforming e-services" which required bureaux and departments to move from a government-centric way to a "whole-of-government" and customer-oriented approach in providing e-services.

21. The Panel deliberated on the "service clustering approach" for the future delivery of e-government services and noted that related e-government services would be grouped into a number of clusters. Each cluster would provide, where appropriate, related commercial services as well so as to enhance the customer and commercial value of the cluster. In this connection, members were concerned about the interfacing arrangements when the five-year contract with the existing ESD service provider ended in January 2006 but first batch of service clusters were only expected to be rolled out in early/mid 2007. The Administration advised that if necessary, it could exercise the option to extend the contract with the ESD service provider on the same terms and conditions for two more years to maintain service continuity.

22. The Panel noted the Administration's plan to invite Expression of Interest to develop the service clusters in May 2005 and would monitor further progress in due course.

Radio Television Hong Kong (RTHK)

23. The Panel deliberated at length on RTHK's role as a public service broadcaster. Given that RTHK received a stable source of public funding, some members urged that RTHK should fulfil its public mission by providing a balanced mix of high-quality programmes to cater for the needs of the community, instead of competing with its private-sector counterparts by producing programmes which were already popular productions among commercial broadcasters. Some members further considered that RTHK should fill the market gap by producing programmes of an educational or cultural nature. RTHK also agreed to consider the suggestion of holding open forums to gauge the community's views on its services and to enhance its public accountability.

24. On the cost-effectiveness of RTHK's operations, the Panel sought information on survey findings on listenership for RTHK's programmes vis a vis those of other commercial broadcasters. Regarding resources allocation, some members were gravely concerned that the independent operation of RTHK might be undermined as a result of the reduction in annual financial provision in the light of the Government's budgetary constraints. They were keen to ensure that

RTHK's quality and scope of service, such as its broadcasting services on the web, would not be affected by a lack of resources.

25. With a view to providing RTHK with up-to-date facilities to improve its operational efficiency, the Panel urged the Administration to expedite the proposed Broadcasting House project and to dispose of the land currently occupied by RTHK through land sale. The Panel would follow up the matter in due course.

Review of the Film Guarantee Fund (FGF)

26. The Panel was briefed on the Administration's proposal to continue the operation of the FGF with a reduced commitment of \$30 million and to use the \$20 million arising from the reduction to create a funding scheme to finance projects conducive to the long-term development of the film industry. The relevant funding proposal was approved by the Finance Committee on 4 March 2005.

27. In principle, members supported measures to promote the development of the film and other creative industries in Hong Kong. To provide more practical support to talented new film-makers, some members suggested that assistance in the form of seed money should be provided under FGF. While stating that the objective of FGF is to promote a film financing infrastructure in Hong Kong, the Administration agreed to explore the suggestion with the film industry.

Cyberport

28. In making an overall evaluation of the Cyberport project, members were keen to ensure that the Cyberport would serve its intended objective of creating a strategic cluster and critical mass of leading IT companies in Hong Kong instead of becoming a property development project competing with other developers in offering quality office and residential premises.

29. To make the best use of the available Cyberport facilities, some members suggested that the Administration should consider measures to assist young people or SMEs to set up IT businesses in the Cyberport, given that these people usually lacked the necessary capital resources to compete with well-established enterprises. In this regard, the Panel noted the Administration's plan to set up a Digital Entertainment Incubation cum Training Centre at the Cyberport.

30. The return on the Government's investment on the Cyberport project was of prime concern to the Panel. Regarding the Administration's forecast yearly internal rate of return (IRR) of around 9.43% to 11.2%, the Panel exchanged views with the Administration on whether the value of the land comprised in both the Cyberport and Residential Portions, not only the land value of the Residential Portion, should make up the Government's capital contribution

to the project in deriving the IRR. In maintaining its position, the Administration's view was that since the Government had 100% ownership of this critical piece of IT infrastructure, it had not included the land value of the Cyberport Portion as the Government's capital contribution.

31. The Panel convened a special meeting to follow up two articles authored by the Secretary for Commerce, Industry and Technology and published in local newspapers on 26 and 27 January 2005. In an effort to set the record straight, many members reiterated their grave concern about the Government's decision to award the project development right to Pacific Century Group (PCG) (now PCCW) in 1999 without going through the usual tendering procedures. They considered that funding approval for the essential infrastructural works should not be taken as LegCo's support for taking the project forward under the present mode of implementation. Panel members further pointed out that LegCo Members did not have the opportunity to consider any alternative proposal on project implementation as the Administration had already reached agreement with PCG on the broad development framework.

32. To ascertain whether there had been any collusion between the Government and the business sector in the decision-making process, the Panel requested the Administration to reveal further information, notably records of its internal deliberations on the Cyberport project. Following the Administration's refusal to disclose further information, Hon LEE Wing-tat moved a motion at the Council meeting on 9 March 2005 that the Council exercised its powers under the Legislative Council (Powers and Privileges) Ordinance to order the Administration to provide the requested documents. The motion was negatived. Meanwhile, the Panel would continue to monitor the progress of the Cyberport periodically.

33. From October 2004 to mid June 2005, the Panel held a total of 11 meetings.

Panel on Information Technology and Broadcasting

Terms of Reference

1. To monitor and examine Government policies and issues of public concern relating to information technology, telecommunications, broadcasting and film services.
2. To provide a forum for the exchange and dissemination of views on the above policy matters.
3. To receive briefings and to formulate views on any major legislative or financial proposals in respect of the above policy areas prior to their formal introduction to the Council or Finance Committee.
4. To monitor and examine, to the extent it considers necessary, the above policy matters referred to it by a member of the Panel or by the House Committee.
5. To make reports to the Council or to the House Committee as required by the Rules of Procedure.

Panel on Information Technology and Broadcasting

Membership list

Chairman Hon SIN Chung-kai, JP

Deputy Chairman Hon Albert Jinghan CHENG

Members Dr Hon LUI Ming-wah, JP
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Howard YOUNG, SBS, JP
Hon Timothy FOK Tsun-ting, GBS, JP

(Total: 6 Members)

Clerk Miss Polly YEUNG

Legal Adviser Ms Connie FUNG

Date 12 October 2004