

香港特別行政區政府

政府資訊科技總監  
辦公室



OFFICE OF THE  
GOVERNMENT CHIEF INFORMATION OFFICER

THE GOVERNMENT OF THE HONG KONG  
SPECIAL ADMINISTRATIVE REGION

本函檔號 Our Ref. : GCIO/G-1/115/1  
來函檔號 Your Ref. : CB1/PL/ITB

電話 Telephone : (852)2582 5533  
傳真 Fax line : (852)2802 4549

9 October 2007

Clerk to Panel on Information Technology and  
Broadcasting  
Legislative Council  
Legislative Council Building  
8 Jackson Road  
Central  
Hong Kong

(Attn: Ms Annette LAM)

Dear Ms LAM,



**Panel on Information Technology and Broadcasting  
Meeting on 12 March 2007  
Report on the Cyberport Project (March 2007)**

Thank you for your letters of 11 May 2007 and 7 June 2007 requesting "detailed information on the rent-free periods, including the length of the rent-free periods and the amortization arrangements, if any, be set out in the form of a table indicating by tenant, the actual contracted rental rate, rent-free periods, the effective net rent and other incentives offered" of the Cyberport Arcade and office buildings as required by the Panel Chairman.

2. Subsequent to the Panel meeting on 12 March 2007, the Administration has provided the Panel with the information on Cyberport Arcade and office leasing supplied by the Hong Kong Cyberport Management Company Limited (HKCMCL) on 12 April 2007.

3. Pursuant to the latest request, the Administration has examined closely with HKCMCL the possibility of supplying the requested information. However, after careful consideration of all factors and consulting legal advice and advice of the HKCMCL Executive Committee, the Administration has come to the view that all relevant information that can be disclosed in connection with the Cyberport tenancy has already been supplied to the Panel. Further details as requested form part of the tenancy agreements between HKCMCL and its tenants. They are commercially sensitive information held in confidence between the contracting parties and cannot be disclosed to any third party. Such disclosure would also compromise HKCMCL's ability to negotiate deals in future leasing of the Cyberport Portion, seriously

jeopardizing the shareholder's interest. We regret therefore that we are not in a position to accede to the request.

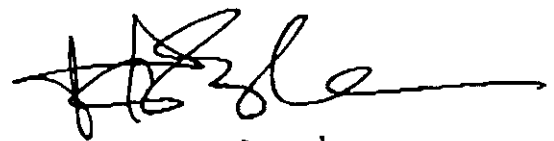
3. I wish to assure the Panel once again that as evident in the information that we have supplied to-date, HKCMCL manages leasing of the Cyberport premises based on prudent commercial principles and adopts commercial best practice aiming to maximize return on the shareholder's asset under prevailing market conditions.

4. We understood that the Panel was particularly concerned whether the Anchor Tenant of the Cyberport Arcade has been given any unduly favourable terms. We wish to assure the Panel that as with all new shopping centres, this has been essential in getting the best deal possible given the necessity of getting Cyberport off the ground at the start. In the case of the Cyberport Arcade, instead of specifying a rent-free period in the tenancy agreement, a provision tying the Anchor Tenant's rental payment to a turnover threshold is stipulated. The turnover threshold has only been achieved recently, which confirmed the fact that the Anchor Tenant had not been given an unfairly generous deal.

5. In this connection, we also wish to point out that in response to queries of Members at the Panel meeting on 8 May 2006, the HKCMCL representative was stating the fact in refuting "hearsay information that the Cyberport had offered a five-year rent-free period for leases of 10 years". (Please refer to paragraph 23 of the Minutes of the Meeting, extract enclosed.) Rent based on business turnover is payable under the Anchor Tenancy. An explicit rent-free period is unnecessary because an equivalent effect is achieved with the turnover threshold.

6. Should you have any questions on the above, please do not hesitate to contact me.

Yours sincerely,



( Stephen HS MAK )

Deputy Government Chief Information Officer

Encl. Extract of LC Paper No. CB(1)1701/05-06

c.c. Hon Albert Jinhan CHENG (Chairman) – Fax no. 2545 5000

Mr Nicholas YANG, Chief Executive Officer – Fax no. 3166 3119  
Hong Kong Cyberport Management Company Limited

Miss Kathleen AU, CEO (Admin) – Fax no. 2827 6646  
Communications and Technology Branch  
Commerce and Economic Development Bureau

**EXTRACT**

**立法會**  
*Legislative Council*

LC Paper No. CB(1)1701/05-06  
(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, 8 May 2006, 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)  
Dr Hon LUI Ming-wah, SBS, JP  
Hon Jasper TSANG Yok-sing, GBS, JP  
Hon Howard YOUNG, SBS, JP  
Hon Emily LAU Wai-hing, JP  
Hon Timothy FOK Tsun-ting, GBS, JP  
Hon Ronny TONG Ka-wah, SC
- Member attending** : Hon Margaret NG
- Member absent** : Hon Fred LI Wah-ming, JP
- Public officers attending** : Agenda Item IV  
Mrs Marion LAI, JP  
Deputy Secretary for Commerce, Industry and  
Technology (Communications and Technology)  
  
Mr Eddie CHEUNG  
Principal Assistant Secretary for Commerce, Industry  
and Technology  
(Communications and Technology) A

Agenda Item V

Mr Stephen MAK, JP  
Deputy Government Chief Information Officer  
(Operation)

Mr Dennis PANG  
Assistant Government Chief Information Officer  
(Industry Development)

Mr Mark O. CLIFT  
Director (Campus and Project Management) of Hong  
Kong Cyberport Management Co. Ltd.

Agenda Item VI

Mr Stephen MAK, JP  
Deputy Government Chief Information Officer  
(Operation)

Mr Dennis PANG  
Assistant Government Chief Information Officer  
(Industry Development)

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

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

Ms Guy YIP  
Council Secretary (1)1

---

\* \* \* \* \*

**V Report on the Cyberport Project (2005)**

LC Paper No. CB(1)1380/05-06(04) -- Information paper provided by  
Administration

LC Paper No. CB(1)1381/05-06 -- Background brief on Cyberport  
prepared by the Secretariat

LC Paper No. CB(1)1436/05-06(01) -- Powerpoint presentation material  
(*tabled and subsequently issued on 9 May 2006*) provided by the Administration  
(English version only)

Presentation by the Administration and Hong Kong Cyberport Management Co Ltd

8. At the invitation of the Chairman, the Deputy Government Chief Information Officer (Operation) (DGCIO(O)) highlighted that the prime objective of the Government in undertaking the Cyberport Project was to support and promote innovation and technological development in Hong Kong through the creation of a strategic cluster of Information Technology (IT) and related companies as well as a critical mass of IT professional talents in the territory. He then briefed members on the progress report for 2005-06 and the business plan for Cyberport for 2006-07 in respect of the following areas:

- (a) Creating a strategic cluster of IT companies;
- (b) Providing infrastructure and technical support to SMEs;
- (c) Nurturing IT talents and promoting professional development; and
- (d) Facilitating exchange and cooperation.

9. On the financial status of the Cyberport Project, DGCIO(O) advised that the operation of the Cyberport Portion recorded positive cashflow starting from October 2005 to March 2006. The Government was confident that in the coming years, the occupancy rate of the Cyberport Portion would steadily increase and the operational efficiency in the Cyberport would continue to be improved, resulting in sustainable positive cashflow operation. As regards the return on the Government's investment in the Project, DGCIO(O) reported that based on the latest forecast by the Cyberport Developer (the Developer), the total amount of the surplus proceeds that should be available for distribution up to year 2010, including \$4.65 billion distributed to-date, was estimated to be around \$20 billion, from which the Government's share should be around \$12.9 billion in total, including \$3 billion already received to-date. He nevertheless pointed out that the actual amount of surplus proceeds available for distribution and hence the Government's share, would depend on the actual sales prices of the remaining residential units. DGCIO(O) further highlighted that the Government together with the Cyberport management would continue to make the best endeavour to achieve the public missions set for the Cyberport in the years to come. The Administration was confident that the Cyberport was capable of making significant contributions to the development of the IT and digital entertainment industries in Hong Kong.

10. DGCIO(O) further said that the Administration and the Cyberport management were planning to invite Panel members to visit the Cyberport before the end of the current legislative session.

11. With the aid of power-point presentation, Mr Mark O CLIFT, Director (Campus and Project Management) of Hong Kong Cyberport Management Co. Ltd (D/HKCMCL) took members through Cyberport's highlights in 2005 in respect of

the following areas:

- (a) Cyberport office tenancy highlights;
- (b) Results for the community and industry;
- (c) International collaborations and accolades;
- (d) Increasing public awareness;
- (e) Cyberport signature events; and
- (f) Cyberport on the right track

Discussion

*Uptake of tenancy*

12. Ms Emily LAU stressed that all along, members were keen to ensure that the Cyberport Project could meet its public mission to create a strategic cluster and critical mass of leading IT companies. However, noting that only 45% of the existing 47 tenant companies were new to Hong Kong, Ms LAU was very concerned that many Cyberport tenants might have merely relocated from other districts and hence, the Project was in reality a property development project competing with other developers in offering quality office premises. As the Committee on Admission of Cyberport Office Tenants (CACOT) had so far considered 163 applications for tenancy and only 47 had been selected, Ms LAU sought information on the reasons for rejecting other applications. Given that currently, the tenants had only taken up altogether 54% of the office space, Ms LAU queried why the Administration was confident in envisaging that the office occupancy rate would increase to 60% - 70% in the next 12 months.

13. Dr LUI Ming-wah also expressed disappointment at the slow progress in the uptake of tenancy at the Cyberport. He was concerned that among the 47 organizations which had leased or committed to lease office premises at the Cyberport, two were institutes set up by local universities while three were government agencies. Dr LUI sought information on ways to boost the occupancy rate.

14. In response, DGCIO(O) stressed that there was no question of the Cyberport competing with other property developers for tenants as the attractiveness of the Cyberport was not low rental, but its state-of-the-art infrastructure, campus-like environment and the synergy that could be unleashed among like-minded companies. Nevertheless, in 2006-07, HKCMCL would continue to work closely with InvestHK, the Hong Kong Economic and Trade Offices and Hong Kong Trade Development etc to promote the Cyberport as the IT and digital entertainment hub of Hong Kong. HKCMCL would also upkeep the performance of the shared facilities to increase the attractiveness of the Cyberport. On the envisaged growth in occupancy rate over the next 12 months, DGCIO(O) explained that about 70 to 80 applications were still under consideration by CACOT or subject to confirmation by the applicants. In view of the improvement in the economic environment and increased international awareness of the Cyberport, the Administration had reasons to believe that the occupancy rate would increase to

60% - 70% steadily in the next 12 months.

15. Ms Emily LAU remained doubtful about the Administration's optimistic estimation and asked whether the Administration had set any target occupancy rate at the inception of the Cyberport Project back in 1999. In view of the slow uptake of tenancy, Ms LAU considered that the Administration had made a wrong decision to waive the take-up guarantee (of not less than 20% and not more than 50% of office space) by Pacific Century Group (PCG) of office premises at the Cyberport.

16. In response, DGCIO(O) recapped the Administration's view that the guarantee, if effected, might be perceived to be excessive and over-dominating as a single company would be allowed to occupy up to 50% of the lettable space at a government-owned IT infrastructure. DGCIO(O) confirmed that the Administration still maintained this view to-date. As far as he understood, no target occupancy rate had been set when the Cyberport Project was implemented.

17. The Deputy Chairman was surprised to note that there was no targeted occupancy rate which in his opinion, should form the basis in deciding whether or not to waive PCG's take-up guarantee. He disagreed with the Administration's rationale for waiving the guarantee and pointed out that PCG might seek to raise rental income by sub-letting office space rather than taking up all the office space itself. He recapped that the take-up guarantee was indeed one of the undertakings in PCG's proposal to develop Cyberport.

18. In response, DGCIO(O) said that as one of the public missions of the Cyberport was to create a strategic IT cluster, it might not be appropriate to entrust PCG with the responsibility in selecting tenant companies in order to fulfil its obligations under the take-up guarantee.

19. Ms Emily LAU could not accept that from the outset, there was no target occupancy rate since this was an important indicator to assess the success or otherwise of the Cyberport. She urged the Administration and HKCMCL to market the Cyberport to overseas companies more proactively instead of competing with local developers for the limited pool of local office tenants. Separately, Ms LAU considered that some of the public missions should also be used to evaluate the achievement of the Cyberport, such as how far Cyberport had helped Hong Kong develop into a leading digital city in the region; and to what extent the small and medium IT enterprises had been nurtured and supported.

20. Notwithstanding that no target occupancy rate had been set when the Project was implemented, DGCIO(O) stressed that the Administration had no intention to compete with other property developers for local tenants. The Cyberport had not sought to admit all tenancy applicants but only those whose business was consistent with the missions of the Cyberport. He reiterated that the main attraction of the Cyberport was its state-of-the-art infrastructure and supporting facilities which were not available in other Grade A office premises in Hong Kong. As regards the extent of the Cyberport in fulfilling the public missions, DGCIO(O) pointed out that the IT infrastructure and services at the Cyberport were important for the

continuous development of the local IT and digital entertainment industries, in particular SMEs which could not afford the capital investment in expensive infrastructure and equipment. On Hong Kong's development into a leading digital city in the region, DGCIO(O) remarked that having regard to Hong Kong's experience, the Mainland and some neighbouring territories had plans to develop Cyberport-like infrastructure while the Cyberport concept of a broadband interconnected community was now catching on in Seoul.

Admin 21. Ms Emily LAU requested that in reporting on the Cyberport Project in the future, the Administration/Cyberport management should provide quantifiable information such as the extent of achievement for each of the public missions, as well as other relevant information including occupancy rates and financial status for members' reference.

22. Noting that there was a 13% increase in the employee headcount of the Cyberport tenants, Mr Ronny TONG sought information on the actual number of employees involved. In response, D/HKCMCL said that the increase in real number was about 400 out of a total headcount of some 3 500 employees. He stressed that the increase was generated by existing Cyberport tenants which had built up and expanded their businesses since their first establishment in the Cyberport.

*Matters relating to rental*

23. The Deputy Chairman sought clarification from the Administration and HKCMCL about certain hearsay information that the Cyberport had offered a five-year rent-free period for leases of 10 years. He considered such terms excessively favourable and might be subject to abuse. In response, D/HKCMCL refuted the hearsay information and highlighted that the terms of the leases entered into by the HKCMCL and prospective tenants were in accordance with prudent commercial principles and in line with existing market practices. As regards market practices, D/HKCMCL advised that in general, the lease period of office premises ranged from one year to five years. Depending on the prevailing market conditions, the maximum rent-free period, which was normally staggered over the lease period, could be up to 24 months.

24. While acknowledging the need to maintain flexibility in offering rent-free period, in particular for new office buildings, the Deputy Chairman considered that if HKCMCL offered a five-year lease with a maximum rent-free period of up to 24 months, this was still too favourable. He was concerned whether all Cyberport tenant companies were given the same concessionary treatment in terms of rent-free period and if not, the criteria in deciding the treatment for individual cases. In view of the benefits involved, the Deputy Chairman considered it vital to conduct the selection of tenant companies in a fair, impartial and open manner.

25. Notwithstanding certain market practices of offering favourable rent-free periods, D/HKCMCL assured members that all leases had been negotiated and entered into in a fair and open manner. The duration of rent-free period varied



from tenant to tenant, depending on a number of factors, including the lease period, the rent, the leased office space and prevailing market conditions etc. In negotiating the lease of Cyberport office space, HKCMCL would strive to offer the minimum rent-free period that was necessary to secure the deal. Where prevailing market conditions were favourable to landlords, HKCMCL had offered rent-free period which was just about the period of time required for fitting out the premises.

26. In reply to the Deputy Chairman's further enquiry on the maximum rent-free period that HKCMCL had ever offered for a two-year lease and a five-year lease, D/HKCMCL advised that he could not disclose the actual details of each particular lease as they were commercially sensitive information that should be kept confidential. Moreover, disclosure of such information might also prejudice the bargaining power of HKCMCL during future tenancy negotiation. Nevertheless, D/HKCMCL reassured members that the negotiation of all leases of Cyberport tenancy was overseen and kept in view by HKCMCL's board of directors.

HKCMCL

Admin

27. The Deputy Chairman was dissatisfied with HKCMCL's response and stressed that he was not asking for detailed information of specific tenants but general information on rent-free period offered by HKCMCL. In this connection, the Chairman asked HKCMCL to provide the information requested by the Deputy Chairman as far as practicable. If it decided against doing so, it should provide the Panel with an explanation in writing. At the Chairman's request, DGCIO(O) said that he would discuss further with HKCMCL to see whether and how relevant information could be provided to the Panel.

*The Arcade*

28. The Deputy Chairman asked whether the entire Arcade or a major part of it had been leased to a single operator who was allowed to sub-let some of the space to other retail operators. If this was the case, he enquired how the single operator had been selected and the duration of the rent-free period. He was concerned that there might be "collusion between business and the Government" and "transfer of benefits" in the process.

29. In response, D/HKCMCL stressed that there was no question of "collusion between business and the Government" and "transfer of benefits". An international property consultant had been engaged as the leasing agency to identify retail service tenants and to help negotiate the leases. D/HKCMCL confirmed that there was an anchor tenant taking up no more than one-third of the total lettable area in the Arcade providing retail services. The anchor tenant operated some of the retail services and sub-let some of the space to other operators in accordance with the tenancy agreement.

30. The Deputy Chairman remained doubtful. As far as he understood, an anchor tenant was usually a major provider operating a single business instead of sub-letting space to other service operators. He reiterated his concern about whether the procedures in identifying the anchor tenant were open and fair. In response, D/HKCMCL assured members that relevant tasks in identifying the

HKCMCL

anchor tenant and other tenancy matters for the Arcade were carried out by the international property consultant which was very experienced in retail service tenancy. Nevertheless, D/HKCMCL agreed to provide supplementary information regarding the tenancy arrangements for the Cyberport Arcade, including the procedures for identifying the anchor tenant and details of the tenancy agreement in allowing the anchor tenant to sublet space to other service operators.

*Financial status*

31. Mr Ronny TONG referred to the following information in the consolidated profit and loss account for the year ended 31st March 2005 of the Hong Kong Cyberport Development Holdings Limited (HKCDHL) (Annex B of CB(1)1380/05-06(04)):

	HK\$
1. Turnover (including rental income and income from hotel operation)	135,843,514
2. Project income	1,674,713,591
3. Other revenues	12,126,034
4. Operating expenses before depreciation	224,629,813

Mr TONG sought further details on the item of "project income" which in his opinion should not be taken into account in evaluating the financial performance of the Cyberport Project if it was not a recurrent item. Assuming that the project income was a non-recurrent item and excluded from the consolidated account, then HKCDHL was in effect operating at a loss of about \$75 million in 2004-05. Mr TONG sought the Administration's confirmation on his understanding.

32. On the project income, DGCIO(O) informed members that it referred to the surplus proceeds received by the Government from the sale of the residential units. He recapped that based on the latest forecast by the Developer, the Government's share of the surplus proceeds by 2010 should be around \$12.9 billion, including \$3 billion already received to-date.

33. Mr Ronny TONG remained unconvinced and was very concerned that the project income of \$1.67 billion might in fact be an aggregate figure accumulated from the past few years. He commented that it was misleading to include an extraordinary non-recurrent income in the consolidated account. It would be fairer if information on the accumulated losses was also included. Echoing his view, Dr LUI Ming-wah was concerned whether the project income referred to the income received in 2004-05.

34. In response, DGCIO(O) stated in the affirmative and confirmed that the first distribution of surplus proceeds of \$1.67 billion to the Government was made on 9 August 2004. On the information about losses, DGCIO(O) referred to Note 9 of the Notes to the Accounts (Annex B of CB(1)1380/05-06(04)) which showed the accumulated losses carried forward.

35. In this regard, D/HKCMCL drew members' attention to the fact that the Cyberport Portion was only practically completed in end 2004, Hence, 2004-05 was just a partial year of Cyberport's operation where a lot of associated developments and groundworks were still underway, thereby incurring higher project expenses. Nevertheless, D/HKCMCL recapped that the operation of the Cyberport Portion recorded positive cashflow for the six months from October 2005 to March 2006. He was confident that the financial prospect of the Cyberport would continue to improve steadily over time.

36. The Deputy Chairman and Ms Emily LAU were concerned that the Cyberport might continue to operate at a loss and rely on cross-subsidization by income from the sale of units in the ancillary Residential Portion to fund the shortfall. In response, DGCIO(O) highlighted that the key concept underlying principle of the Cyberport Project was that revenue from the sales of the residential units would be used to drive the Project and fund the project expenses. It was just a matter of financial arrangement that the surplus proceeds from the sale of the residential units would be used to offset the project expenses for the Cyberport Portion.

37. Noting that in 2004-05, the rental income of the Cyberport was about \$40.2 million whereas the management fee income was some \$28.7 million, Dr LUI Ming-wah was very concerned that under normal circumstances, the management fee should only amount to some 10% the its rent of the premises. He sought information on the level of rental charges and the total floor area that had been leased. The Deputy Chairman also pointed out that the income from management fee was about 70% of the rental income. This might either be attributed to a very low level of rental charges or a very long rent-free period during which tenant companies were only required to pay management fees.

38. In response, D/HKCMCL highlighted that all phases of the Cyberport Portion were not completed practically until December 2004. In 2004-05, 38% of all lettable office space, i.e. 380 000 square feet, had been leased. As such, the rental income recorded in the 2004-05 consolidated account might not reflect a full year's rental income. On the actual level of rental charges, D/HKCMCL recapped that the information was commercially sensitive.

39. Dr LUI Ming-wah further noted that the building management expenses and IT facilities maintenance fee for the same reporting period were around \$76.3 million and \$25.9 million respectively. He was very concerned that the amount of building management expenses alone was higher than the total of rental income and management fee income.

40. In this regard, D/HKCMCL advised that to make the Cyberport marketable and vibrant, the infrastructure of all shared facilities should be ready and in place when office tenancy was negotiated. Like any other infrastructural development projects in their initial years of operation, the operating cost would usually be relatively higher than the incomes generated. However, he envisaged that the two

sets of figures would be more in line with the usual norms as the operation of the Cyberport was up and running.

41. Referring to footnote 2 of the Administration's paper (CB(1)1380/05-06(04)) that the Development Maintenance Fund (DMF) was changed from \$200 million to \$500 million on 31 December 2003, the Chairman sought information on the source of funding for the DMF, its intended purpose, the reasons for the increase and its implications.

42. In response, DGCIO(O) advised that pursuant to the Project Agreement, the DMF was one of reserve funds set up from the capital contribution of the Developer for the Project to provide funding for maintenance, upkeep and where necessary, replacing the shared facilities in the Cyberport Portion. When a provisional assessment of the DMF was made in late 2003 in the light of operational experience, the amount was raised from \$200 million to \$500 million. He added that it was unlikely that the level of DMF would be further increased.

Summing up

Admin 43. The Chairman requested the Administration and HKCMCL to take note of members' views expressed at the meeting and make the best endeavour to provide the information requested by members. On the timing of submitting the progress report to the Panel and to enable members to examine the latest financial status of the Cyberport Project, the Chairman suggested that the Administration and Admin HKCMCL should brief the Panel annually, after the financial statement of the financial year in question had been audited. In reporting the financial status of the Cyberport Project, relevant figures for the past few years should be listed side by side in the consolidated account report for members' easy reference.

*(Post-meeting note: The HKCMCL advised that auditing of the annual financial statement is normally completed by October each year).*

\* \* \* \* \*