

Panel on Information Technology and Broadcasting

List of outstanding items for discussion

(position as at 6 July 2007)

Proposed timing for discussion

IT-related issues

1. Cyberport Project

At the Panel meeting on 12 March 2007, the Administration briefed members on the progress of the Cyberport Project including the financial performance of the project as reported in the audited accounts for the financial year ended 31 March 2006.

To be confirmed

Further information provided by the Administration to address members' concerns regarding favourable leasing terms/incentives offered to the tenants and the Anchor-Tenant of the Cyberport Portion (i.e. the Arcade and the office buildings), the selection of the Anchor-Tenant, the breakdown figure of rental income in respect of the retail space at the Arcade and the office buildings and the breakdown figure on the gross revenue of the retail outlets at the Arcade, etc has been circulated to members vide LC Paper No. CB(1)1360/06-07(01) on 16 April 2007.

Telecommunications

2. Release of spectrum for broadband wireless access (BWA) services (*)

According to the Administration, there is interest from the industry to provide BWA in Hong Kong. With a view to facilitating their deployment, OFTA has launched two rounds of public consultation exercise in December 2004 and August 2005 to initiate discussions on the appropriate form of regulation and how radio spectrum should be assigned for such services.

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Upon the promulgation of the spectrum policy framework, OFTA released a further consultation paper on 11 May 2007 for a two-month consultation.

3. Review of regulatory framework for universal service arrangements (*)

At present, PCCW has a Universal Service Obligation under which it is required to, inter alia, provide basic fixed telecommunications service to anyone in Hong Kong within a reasonable time, including those customers that are not "economical" to serve from a business perspective. The losses incurred in serving those "uneconomical customers" are met by Universal Service Contributions, currently levied on International Direct Dialing (IDD) traffic minutes and therefore paid for by external telecommunications service providers.

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Taking into account the rapid developments of the telecommunications markets in recent years, the Office of the Telecommunications Authority (OFTA) launched a public consultation exercise on 28 December 2006 which aimed to ensure that the regulatory framework for universal service obligation is fair, sustainable and effective, including whether there should continue to be a cross-subsidisation by external telecommunications services for local fixed services provided under universal services arrangements. The executive summary of the consultation paper and the relevant press release were circulated to Panel members on 3 January 2007 vide LC Paper No. CB(1)620/06-07. After considering the submissions, OFTA issued a Telecommunications Authority (TA) Statement on 8 June 2007 to conclude the consultation.

4. Provision of consumer information in relation to residential broadband use in Hong Kong (*)

When the Panel discussed the item on "Issues relating to Internet disruptions caused by earthquake damage to undersea cables" on 15 January 2007, one of the deputations attending the meeting, Hong Kong Broadband Network Limited (HKBN), raised that OFTA had commissioned Hong Kong University of Science Technology R&D Corporation Limited to carry out a technical study by conducting technical tests on five key performance indicators for each of the four largest broadband Internet service providers and called on the Administration to publicize the findings of the study to enable consumers to make informed choices. Subsequent to the meeting, HKBN made a formal submission to individual Panel members, which has been forwarded to the Administration/OFTA for information and follow up upon the deputation's consent, to follow up with the non-publication of the results of technical study. While explaining the reasons for the non-publication of the 2005 survey results, OFTA also suggested to fully apprise the Panel of the local end of broadband Internet service provision as well as consumer information provision under this agenda item. OFTA's reply, in

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English and Chinese, has been circulated to members on 13 and 27 February 2007 respectively vide LC Paper No. CB(1)942/06-07(01). The TA has issued a statement on the Survey on Residential Broadband Internet Access Service on 2 May 2007.

5. Issues related to the protection of personal information of e-mail account subscribers (*)

Arising from the reported incident in which it was alleged that Yahoo! Holdings (Hong Kong) had provided the Mainland authorities information regarding the personal emails of Mr SHI Tao, the Panel discussed the protection of personal information of e-mail account subscribers on 1 November 2005. Members agreed to re-visit the issues after relevant information has been received from the Privacy Commissioner for Personal Data (PCO), the Hong Kong Internet Services Providers Association and the Assistant Legal Adviser of the Secretariat.

To be confirmed

The paper prepared by the Assistant Legal Adviser 3 (ALA3) on the legal aspects of the subject has been circulated to all Members on 23 January 2006 vide LC Paper No. CB(1)771/05-06. An interim reply provided by PCO has been issued to all Members on 2 December 2005 vide LC Paper No. CB(1)445/05-06. PCO has also been reminded on 27 February and 29 September 2006 to provide further information to the Panel. Issues raised at the special meeting on 1 November 2005 and ALA3's written advice have been referred to the Panel on Home Affairs to facilitate its follow-up of the review of the Personal Data (Privacy) Ordinance (Cap 486) (PD(P)O).

An investigation report on the incident issued by PCO on 14 March 2007 has been circulated to members on 28 March 2007 vide LC Paper No. CB(1)1233/06-07. PCO has concluded in the report that there is insufficient evidence to prove that Mr SHI Tao's personal data were disclosed by Yahoo! Hong Kong Limited to the authorities of the People's Republic of China. As the investigation of the incident has given rise to concerns on the scope of application of PD(P)O, PCO shall bring to the attention of the Home Affairs Bureau issues emanating from the report for the Government's consideration on the need to review and amend PD(P)O for effective enforcement and guidance to data users and data subjects.

6. Issues relating to Internet disruptions caused by earthquake damage to undersea cables

At the meeting on 17 April 2007, the Panel received a briefing by the Administration on the post-mortem report on the disruptions of Internet services due to earthquakes near Taiwan on 26 and 27 December 2006.

To be confirmed

The Administration/OFTA was requested to provide after the meeting a detailed written submission on OFTA's contingency plan in response to emergency and its mechanism for disseminating information to consumers in the event of disruptions in IDD and Internet services. The Administration was also requested to provide information on the damages and losses suffered by SMEs as a result of the Incident and on the specific measures to be taken by the Administration to help SMEs impacted by the internet outage during the Incident and in future. Subject to the information provided by the Administration/OFTA, the Panel may re-visit the subject and may consider inviting deputations including the Consumer Council to present views on the subject if necessary.

Broadcasting and Control of Obscene and Indecent Articles Ordinance (COIAO)

7. Broadcasting Services Survey 2006

In October 2006, the Broadcasting Authority (BA) commissioned a consultant to conduct the Broadcasting Services Survey 2006 to track the use and penetration of various broadcasting services in Hong Kong; the viewing and listening habits of the public; and their attitudes towards matters relating to broadcasting.

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of 2007

The survey will provide useful information for reference by the BA and the Administration in formulating and implementing broadcasting policy and regulation, thereby facilitating further development of the industry. The survey is expected to be completed in the second half of 2007.

8. Public consultation on review of COIAO (Cap. 390)

In light of community concerns, the Administration is reviewing the provisions in the COIAO, in particular those related to repeated offenders, to assess if they would need to be strengthened to enhance the deterrent effect. The Administration will consult the public, including the Panel, after completing the review.

To be confirmed

At the meeting on 11 September 2006, the Panel received views from deputations on issues related to the regulation of pornographic and violent materials transmitted through the mass media and protection against intrusion of privacy by the mass media. It was noted that the Administration would review if the provisions in the COIAO would need to be strengthened to enhance the deterrent effect, and take forward discussions with all stakeholders on matters relating to intrusion of privacy rights on the basis of the proposals of the relevant reports of the Law Reform Commission (LRC). According to the Home Affairs Bureau, it would take the LRC proposals back to the Panel on Home Affairs for further discussion. The Chairman has advised that the relevant Panels would follow up with the Administration on the issues in due course.

9. Review on public service broadcasting (*)

On 17 January 2006, the Administration announced the appointment by the Chief Executive of the Committee on Review of Public Service Broadcasting in Hong Kong (Review Committee). The Panel has met with the Administration, the Review Committee, Radio Television Hong Kong (RTHK) Programme Staff Union on 25 January 2006 to discuss issues related to the review. The Panel has also received deputations' views on the subject matters at the meetings on 11 March 2006 and 1 August 2006.

To be confirmed

The Panel has issued a report on its study on 9 October 2006 and will continue to follow up the development of PSB in Hong Kong with the Review Committee and the Administration.

The Review Committee submitted its report to the Chief Executive on 28 March 2007. The Government is studying the recommendations of the Review Committee, and will issue a consultation document which will set out the Government's views on the way forward to seek the views of the community in the second half of 2007.

At the special meeting held on 17 May 2007, the Panel met with the Administration (including Director of Broadcasting) and members of the Review Committee to discuss matters relating to the review of public service broadcasting in Hong Kong. Members' views were

also sought on the proposed creation of a supernumerary post of Administrative Officer Staff Grade C (D2) post to follow-up the Review Committee's report.

At the special meeting held on 29 June 2007, the Panel met with and receive views from deputations on issues relating to the review on the public service broadcasting. The Administration was requested to include the feasibility of transformation of RTHK into a public broadcaster in the public consultation to be conducted in the second half of 2007.

10. Proposed acquisition of ATV's shares by Citic Guoan Group

At the meeting held on 5 June 2006, the Panel agreed to further discuss the matter at another meeting to enable members to understand more about the impact on ATV's competitiveness and its editorial independence consequent to the acquisition of its shares by Citic Guoan Group (the Group), if approved. The BA has been requested to revert to the Panel before it makes a final decision on whether or not to approve the proposed acquisition; as well as to advise the Panel of how it had assessed the various relevant factors, including public views, if any, in the process, and to attend the Panel's meeting to exchange views with the Panel on the subject. BA's initial reply and the detailed information provided by the Administration have been circulated to all Members on 16 June and 7 August 2006 respectively vide LC Paper Nos. CB(1)1776/05-06 and CB(1)2102/05-06.

To be confirmed

On 4 April 2007, ATV announced that ATV and some of its shareholders had entered into another set of conditional agreements with Mingly Corporation (Mingly). The Panel was briefed by the Administration and BA on the proposed acquisitions by the Group and Mingly at the Panel meeting on 14 May 2007. The Panel requested the Administration to revert to the Panel before a decision is made on the proposed acquisitions.

On 5 June 2007, the Chief Executive in Council approved ATV's applications for certain "disqualified persons" to exercise control of ATV, while the BA announced its approval for certain "unqualified voting controllers" to acquire ATV's shares and the overall change in shareholding structure resulting from the proposed acquisitions of ATV's shares by the new shareholders including the Group and Mr Payson CHA, the Chairman of Mingly. The Administration issued a Legislative Council Brief explaining the details of the applications and the decisions on the same day.

11. Radio Television Hong Kong

At the Panel meeting on 12 March 2007, the Panel received views from deputations on "Issues relating to the editorial independence of RTHK and the yardsticks of the BA on imposing sanctions". Members noted that pursuant to the Memorandum of Understanding (MOU) signed in September 1995 (which was revised in 1999) among the BA, the then Secretary for Recreation and Culture and the Director of Broadcasting, RTHK has agreed to comply with the relevant codes of practice on programme standards issued by the BA; the BA shall investigate complaints about any programme produced or broadcast by RTHK; and the BA may impose on RTHK non-financial sanctions similar to those applicable to the licensed broadcasters. In this connection, Hon Emily LAU has proposed that the existing arrangement under the MOU be reviewed in due course.

To be confirmed

12. Domestic/private pirated viewing of subscription television programmes

Last discussed on 11 July 2005. The Administration has been requested to, inter alia, monitor the global trend of regulatory practices against pirated viewing of pay TV programmes and update the Panel where necessary.

To be confirmed

13. Review of the broadcasting regulatory regime (*)

In the light of technological and market convergence in the electronic communications sector, the boundaries between telecommunications, broadcasting and information technology are blurring. Some old concepts adopted for the regulation of broadcasting may become obsolete in the converging environment. Just like other jurisdictions, Hong Kong needs to update the regulatory regime in the light of latest technological and market developments to ensure that its framework remains conducive to the further development of the broadcasting industry in particular and the electronic communications industry in general.

To be confirmed

14. Opening up radio/TV channels for use of the community (*)

Item proposed by the Deputy Chairman of the 2005-2006 session. The subject of public access channels has been considered in the context of the development of Digital Broadcasting in Hong Kong, licence renewal for television and sound broadcasters at the Panel meetings held on 27 June and 5 December 2003, 12 January and 8 March 2004 and 9 January 2006; and of review on public service broadcasting at the meetings on 25 January, 11 March and 1 August 2006.

To be confirmed

Two motions calling for, among other things, the setting up of public access channels were passed at the Council meetings on 18 February 2004 and 8 February 2006, which showed that there was a broad agreement in principle among Members that such feasibility should be looked into.

The Administration considered that given the vibrant broadcasting sector providing a variety of services to meet the communications needs of the public, there is no urgent need to set up a public channel. Moreover, there were other considerations, such as the financial capability of the channel providers, channel governance and management as well as the accountability of these channels.

The Panel received a letter from Citizens' Radio requesting the Panel to urge for the opening up of radio channels for the use of the community so as to safeguard the freedom of speech. The letter was circulated to Panel members on 19 October 2005 vide LC Paper No. CB(1)93/05-06(01).

According to the Legislative Council Brief on Application for a Sound Broadcasting Licence to Operate Community Radio Service (File Ref: CTB(CR)9/2/26(06)Pt.4) issued on 12 December 2006, the Chief Executive in Council has rejected the application made by the Ocean Technology Limited for a sound broadcasting licence under the TO to establish and maintain a community radio known as "Citizens' Radio Station" having considered the recommendations made by BA under section 13C(1) of the TO and the representations submitted by the applicant.

15. Complaint handling mechanism of Television and Entertainment Licensing Authority (TELA)

In scrutinizing the Broadcasting (Revision of Licence Fees) Regulation 2006 (the Regulation), some members of the Subcommittee formed to study the Regulation have expressed concern about the effectiveness of the existing complaint handling mechanism of TELA in dealing with complaints against the service licensees for non-compliance with the Code of Practice on Television Programme Standards. The Subcommittee has requested the Panel to follow up on the relevant issues. At the request of the Panel, the Administration has provided a paper on the subject, which has been circulated to Panel members vide LC Paper No CB(1)2107/05-06 on 8 August 2006. The Chairman has advised that the subject be included in the Panel's list of outstanding items for discussion in due course.

To be confirmed

**Proposed timing
for discussion**

16. Coverage and availability of domestic free and/or pay television programme services

Proposed by Hon Albert CHAN. At the meeting on 12 October 2006, Panel members noted Hon CHAN's concern that under the existing policy guidelines, domestic free television programme service licensees would normally be exempted from serving those areas where the populations affected by poor television reception were below 2 000 persons within an area of a radius of three kilometers and as such, the services are not made available to some villages with populations of about 500 persons. He was also concerned that some areas on Lantau Island still have no pay television services coverage. Members agreed to discuss the item in due course.

To be confirmed

17. Development of digital audio (DA) broadcasting in Hong Kong

Last discussed on 9 January 2006. The Administration has been requested to consider members' concerns expressed at the meeting, in particular the suggestion of setting up a working group to study the issues involved and adopt a more proactive approach in the introduction of DA broadcasting in Hong Kong.

To be confirmed

(*) For these items, the Panel may consider inviting the industry, stakeholders and other interested parties to provide views and attend the Panel's meetings