

# 立法會

## *Legislative Council*

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### **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 2007-2008 session of the Legislative Council (LegCo). It will be tabled at the Council meeting on 9 July 2008 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, 9 October 2002 and 11 July 2007 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 in **Appendix I**.

3. The Panel comprises 13 members. Hon Albert Jinghan CHENG and Hon SIN Chung-kai were elected Chairman and Deputy Chairman of the Panel respectively. The membership list of the Panel is in **Appendix II**.

#### **Major work**

##### Internet disruptions caused by earthquake damage to undersea cables

4. Following the earthquake in the Luzon Strait on 26 and 27 December 2006, the Panel discussed the follow-up actions relating to the long disruptions in Internet and external telecommunications services during the incident. Members noted that in the light of the incident, the Office of the Telecommunications Authority (OFTA) had issued a new set of guidelines requiring that, in the event of internet disruptions caused by earthquake damage to undersea cables, the fixed and mobile network operators concerned should

report to OFTA within two hours from the confirmation of the incident, or within 4 hours from the happening of the incident. On the outage of the public telephone network, members also noted that operators concerned were required to report within one hour after the reporting criteria were met. On the public alert mechanism, members suggested that the Administration should specify clearly the authority/person in command and to be ultimately held responsible, the timeframe within which a public alert had to be issued and the nature of information to be released to the public, such as the scale of the outage, the extent of the damage and seriousness of the impact. The Administration advised that under the public alert mechanism, the Director-General of Telecommunications would assess the significance of the impact on the territory to determine whether a public alert was warranted. The enhanced reporting mechanism would specify the information to be provided by the operator when reporting an outage as well as the timeframe for reporting. OFTA would also seek to deliver the same pledge of alerting the public, if warranted, within one hour or so after receipt of the report as far as practicable.

5. Members had urged the Administration to proactively assist the small and medium enterprises (SMEs) impacted by the above-mentioned incident. The Administration advised that the relevant guideline issued through the Government's one-stop information security portal had been revised in September 2007 to include a new section on disaster recovery and business continuity planning for SMEs' reference. In the event of any network disruption, the Administration would endeavour to contain the extent of the damage and facilitate a speedy recovery of normal services to minimize the adverse impact on SMEs through the implementation of various initiatives and improvement measures, including the new guidelines on network outage reporting mechanism, on-going development of the Hong Kong telecommunications infrastructure to strengthen the infrastructure's reliability and resilience, promoting business continuity for SMEs and inter-departmental cooperation.

#### Consumer information on residential broadband use in Hong Kong

6. On the provision of consumer information on residential broadband use in Hong Kong, the Panel was pleased to note the initiatives of the Administration and the Internet service providers (ISPs) in establishing performance pledges and best practice indicators, and also the quarterly release of actual performance statistics for public information, to safeguard the rights and interest of consumers. Nevertheless, members were concerned that the best practice indicators and performance pledges were not service guarantees and that non-compliance with the guidelines would not attract any penalty. The Administration advised that the performance pledges were public commitments made by the ISPs that they would make their best efforts to achieve the pledged service standards, while OFTA would continue to monitor the performance of ISPs and take enforcement action against breaches identified during inspections or established through the complaint mechanism.

7. Noting that about \$1 million would be spent on consumer education programmes to educate the public about the use of computers and the Internet at home, the Panel considered that the resources could be better utilized by setting up a "call centre" with a manned hotline service to handle public enquiries and complaints about broadband services, including providing appropriate assistance, such as technical assistance, mediation service, or referral to the Telecommunications Authority (TA). The Administration undertook to study the Panel's suggestion with TA.

8. The Panel welcomed the pilot customer dispute settlement scheme for voluntary participation by ISPs and hoped that it could be launched as soon as practicable. While no professional fees would be charged by participating arbitrators during the pilot stage, members urged the Administration to consider the funding arrangements when assessing the feasibility and cost-effectiveness of maintaining the scheme on a long-term basis. Service operators should be informed early if they would have to pay for the arbitration service after the trial period. The Administration should also consider whether the licence fee should be increased to finance the scheme or the "call-centre" as suggested by the Panel. The Administration noted members' concerns and undertook to give due consideration to future funding arrangements of the scheme.

#### Radio spectrum for Broadband Wireless Access (BWA) and the creation of a unified carrier licence (UCL)

9. The Panel discussed the outcome of the public consultation on the provision of radio spectrum for BWA services and the legislative proposal to enable the release of the frequency spectrum by auction. Members supported in principle the Administration's proposal as BWA spectrum would support fixed services, mobile services and converged services. Since the auction would be open to existing operators and new market entrants alike, market forces and economic principles would be given a full play, thus ensuring an efficient market regulation and healthy competition for the provision of quality telecommunications services to consumers. The Panel noted that the Telecommunications (Determining Spectrum Utilization Fees by Auction) Regulation and the Telecommunications (Designation of Frequency Bands Subject to Payment of Spectrum Utilization Fee) (Amendment) Order 2008 came into effect on 4 July 2008 following negative vetting by the Legislative Council.

10. The Administration also briefed the Panel on the outcome of public consultation on the proposed creation of UCL under the Telecommunications Ordinance (TO) (Cap. 106) and the legislative proposal to introduce the new type of carrier licence, which would be used as the licensing vehicle for the BWA service to tie in with the auction of BWA spectrum in the fourth quarter of 2008. Having invited industry players to present their views on the issue, members noted that industry players supported the proposal to create the UCL but some fixed operators opposed to the proposed licence fees, in particular the customer connection fee and number fee. While some members supported in principle the Administration's legislative proposal, some other members expressed concern

about the proposed number fee and the divergent views among industry players.

11. To enable the introduction of the UCL, the Telecommunications (Carrier Licences) (Amendment) Regulation 2008 (L.N. 132) and the Telecommunications (Level of Spectrum Utilization Fees) (Second Generation Mobile Services) (Amendment) Regulation 2008 (L.N. 133) were gazetted on 16 May 2008 and tabled for negative vetting at the Council meeting on 21 May 2008. A subcommittee was formed to study the two amendment regulations, which would come into operation on 1 August 2008 after completion of the negative vetting procedure within the current legislative session.

#### E-government programme and 2008 Digital 21 Strategy

12. Regarding the implementation of e-government programme and the initiatives under the 2008 Digital 21 Strategy, some members opined that the potential of the Smart ID card and the data storage capability of the chip embedded in the Smart ID card had not been fully realized and utilized. They urged the Administration to make good use of the Smart ID card as a platform to develop a wide spectrum of digital applications for improving departments' efficiency and productivity. Some other members, however, considered that the Administration should strike a balance between making wider use of the Smart ID Card and the need for protecting the privacy of the personal data contained therein. On the adoption of information communication technology (ICT) among SMEs, some members expressed disappointment over the low penetration rate and urged the Administration to identify barriers in this respect. The Administration advised that the task force would examine the barriers to ICT adoption and measures to promote the wider use of ICT among SMEs. The Administration would report the findings to the Panel in due course.

13. The Panel supported in principle the Administration's proposal of providing \$600 million for implementing 378 administrative computer system projects. Members noted that those Government bureaux/departments which were experienced in computerization and integration of e-government into their overall operation were more ready to go further towards automation and electronic solutions, while other departments which had little or no experience in IT development and application had lagged much behind. Members were concerned that following the setting up of the Information Technology Management Unit and the Government's policy of devolving management responsibilities for IT projects to bureaux/departments, some departments in need of automation might be limited by insufficient manpower and impeded by the lack of management and technical know-how to embark on IT initiatives. This would have the effect of delaying the implementation of e-government initiatives for better delivery of services and higher operational efficiency. The Administration advised that a consultancy study had been conducted to examine this issue and come up with recommendations, which would be taken forward to facilitate integration of e-government and the adoption of e-business solutions in bureaux/departments.

14. Some members expressed reservation on the Government's commissioning studies on consultancy and outsourcing of information technology services. They held the view that Government departments should have sufficient in-house IT personnel to support their internal IT development and formulate IT strategies. In this connection, members suggested that the Administration should study similar government set-up in other countries to ascertain the appropriate level of in-house IT manpower for supporting a Government of 160 000 civil servants. The Administration advised that it would keep in view the situation and monitor the level of outsourcing to ensure a right balance.

15. On the effectiveness of the Unsolicited Electronic Messages Ordinance (UEMO) (Cap. 593) in tackling the problem of spam, members welcomed the setting up of the anti-spamming task force to assist the Government in monitoring the effectiveness of the legislation and to advise the Government on the strategies to further tackle the problem of unsolicited electronic messages as well as to enhance public awareness of the rights and responsibilities of senders and recipients. Members also supported in principle the issue of anti-spam codes of practice which were developed by OFTA in collaboration with telecommunications service operators for the purpose of providing practical guidance in respect of the application or operation of the UEMO. The Administration assured members that it would monitor the compliance situation, and review the effectiveness of the measures in tackling the problem of spam.

16. Members considered that there was a need to protect the security of the information in the use of Wi-Fi facilities to prevent unauthorized access to the system. Some members also expressed concern about the impacts of radio frequency signals on human health and urged the Administration to monitor the issue on an on-going basis. The Administration advised that in drawing up the Government Wi-Fi programme, high standard of information security had been adopted. The Administration assured the Panel that the Government attached importance in ensuring the promotion of Wi-Fi service would not jeopardize citizens' health.

#### Cyberport Project

17. The Panel considered it regrettable that the Cyberport had not made much progress in achieving its public missions of developing a regional centre of excellence in IT, and creating a strategic cluster of quality IT and IT-related companies for developing Hong Kong into a leading digital city in the region. Members also expressed concern about the relatively low occupancy rate of the lettable office space and retail space in the Cyberport Arcade. The Administration assured the Panel that the Cyberport management would continue to strengthen its efforts in achieving the public missions and to deliver tangible results, as well as to make the best endeavour to boost up the occupancy rate in the years to come.

18. The Panel nevertheless noted that there was a significant increase in the operating revenue to \$263 million for the year ended March 2007, as compared to \$188 million in 2005-2006 and \$136 million in 2004-2005. The Panel would continue to monitor the progress of the Cyberport Project periodically.

#### Implementation of digital terrestrial television (DTT) broadcasting

19. On the implementation of DTT broadcasting, the Panel noted that the construction of the five transmission stations at Castle Peak, Cloudy Hill, Golden Hill, Kowloon Peak and Lamma Island would be completed in stages on or before end-2008, by which time the reception areas would cover at least 75% of the total population of Hong Kong. Members urged the Administration to target at completing the five transmission stations by June/July 2008 the latest, thus allowing time for the electronic manufacturers to produce sufficient DTT receivers for the Hong Kong market and for the public to purchase and install the set-top boxes. Members also suggested that part of the provision for the publicity and promotion of the 2008 Beijing Olympics be used to expedite the roll-out of transmission network to achieve close to 99% digital coverage by the 2008 Beijing Olympics. After discussion with the two domestic free TV broadcasters, the Administration advised that they had brought forward their plan to complete construction of the five transmission stations and the one at Mount Nicholson to extend digital coverage to 75% of the population from end 2008 to early August 2008, so as to enable more people to enjoy viewing of the Beijing Olympics with DTT. The Administration would work closely with the two broadcasters to increase the digital coverage as early as practicable and hopefully to achieve close to 99% coverage by 2011.

20. The Panel noted that the two broadcasters were supportive of the use of a "combined" set-top box although they objected to pay TV operators bundling free TV service channels into pay TV channels. As consumers in general would welcome the convenience of a "combined" set-top box, members called on the Administration to facilitate discussions among the broadcasters to bring about an early consensus. There should also be publicity on the choices of DTT receivers available and the best time to purchase a set-top box for DTT reception to address consumers' concerns in this respect. Members suggested that the on-line database of DTT service coverage should be enhanced to include information on buildings which had completed the upgrading work of In-Building Coaxial Cable Distribution System, to facilitate public checking.

#### Film Development Fund (FDF)

21. In view of the concerns raised by a number of film professionals and industry players about the cumbersome application procedures of the FDF, the complicated Production Finance Agreement and the emphasis on the commercial considerations of the production, members requested the Administration to consider streamlining the procedures and the eligibility criteria for the FDF. The Administration explained that it was Government's intention that by taking the lead in providing financial support for small-to-medium budget films and

other film-related projects, and by encouraging funding applicants to adopt international best practices, the funding scheme would be successful in the long run in enhancing the standard of the local movie industry and boosting private investors' confidence in local film production. The Administration assured members that it would continue to monitor the implementation of the FDF and maintain close liaison with the industry to seek their views on the application procedures.

22. Members reflected that a number of industry players had expressed concern about the difficulty in obtaining the approval of the State Administration of Radio, Film and Television (SARFT) of the Mainland for the release, distribution and shooting of Hong Kong films in the Mainland following the film "Lust Caution". As such, members urged the Administration to proactively liaise with SARFT to solve the problem and devise specific measures to assist the local film industry in securing access to the huge Mainland market, thereby increasing employment opportunities in the local film industry. Subsequent to the follow-up with the relevant Mainland authorities, the Administration advised members that the project registration for Hong Kong-Mainland co-productions and the vetting of completed films were in progress. Films recently submitted for vetting were being processed within the normal timeframe.

23. In view of the shrinking film market and dwindling number of local productions, in particular small-to-medium budget films, the Panel was of the view that the film industry was facing a very tough time, plagued with talent drought and piracy of film products. In this connection, members suggested that emphasis should be put on the nurturing of film talents and the training of new entrants in various aspects of film production and distribution work. The Administration assured members that it would monitor closely the progress of the FDF and conduct a review in consultation with the film industry to assess the effectiveness of the FDF two years after its implementation.

#### The Control of Obscene and Indecent Articles Ordinance (COIAO) (Cap. 390)

24. The Panel discussed the survey results on the COIAO commissioned by the Television and Entertainment Licensing Authority (TELA). Referring to the survey findings in which the majority of the respondents who regarded the penalties not appropriate and too lenient, members expressed concern about the low level of penalties imposed upon conviction, in particular those relating to media organizations which had repeated records of publishing indecent articles. In this connection, members urged the Administration to consider strengthening the deterrent effect of COIAO by increasing the maximum penalty on repeated offenders and imposing harsher penalties on them. The Administration assured that members' and the public's concerns in this regard would be considered and addressed in the coming review of the COIAO in 2008.

25. In view of the pervasiveness of Internet service and its popularity in Hong Kong families, members expressed concern about the prevalence of indecent/obscene Internet content easily accessible by young people and students.

The Panel considered that measures should be taken to protect the youth from being exposed to objectionable materials classified under the COIAO. The Administration advised that TELA would continue to work closely with the Hong Kong Internet Service Providers Association to tackle the problem of objectionable Internet content. Publicity and education would be stepped up on the positive use of the Internet and the wider use of filter softwares to protect youngsters from indecent Internet content. It would also consult the community on feasible ways to improve the regulation in this regard in the context of the COIAO review.

#### Regulation of radio broadcasting and the review of public service broadcasting (PSB)

26. Following the recent incident on unlicensed broadcast by Citizens' Radio leading to the prosecution of a number of persons for breaching the provisions in the TO, some Panel members expressed concern that the Administration seemed to have enforced the concerned provisions selectively. As such, the Panel requested the Administration to brief members on the prevailing policies relating to the regulation of radio broadcasting and the use of radiocommunications apparatus for the purpose of radio broadcasting.

27. Members expressed concern about the deferral of the review of the TO pending the outcome of the appeal on the magistrate's constitutionality ruling arising from the incident. They pointed out that the criteria and requirements for licensing were not clearly prescribed in the TO and that there was no provision for appeal against the decision of the Chief Executive-in-Council who had unchecked power to approve or reject applications for a TV or sound broadcasting licence. Members considered that the outdated TO and the licensing regime were no longer effective in regulating the telecommunications industry and should be revamped in line with public expectation of the prompt opening up of airwaves for use by the community. Members also considered that the current licensing regime which focused mainly on financial consideration was against the world trend whereby community channels in a number of overseas economies had received government subsidy. The Panel therefore called for an early review of the TO to enhance the fairness and transparency of the licence processing procedures regardless of the outcome of the appeal. At the Panel's request, the Research and Library Services Division of the LegCo Secretariat also conducted a research on the regulation of radio broadcasting services in Canada, the United Kingdom, Australia and the United States and presented its report to the Panel to facilitate members' future deliberation on the situation in Hong Kong. The Panel would continue to follow up the issue in due course.

28. On the development of the review of PSB, the Panel noted that the recent litigation concerning Citizens' Radio had sparked off community concern and discussion about the opening up of radio/television channels for use of the community. The Administration had to defer the release of the consultation paper on PSB and the future of Radio Television Hong Kong (RTHK) as more



time was needed to prepare for a comprehensive consultation exercise in view of the sensitive and complex issues which had to be dealt with together. The Panel expressed regret about the delay in the release of the long-awaited consultation paper. Some members were concerned that the bundling of PSB consultation, the future of RTHK and the opening up of airwaves for community radio stations with the legal proceedings against Citizens' Radio would hold up all the issues pending the outcome of the judicial review to determine the constitutionality of the TO. In this connection, the Panel urged the Administration to come up with a timetable for the consultation to expeditiously address wide public concern instead of waiting for the court's ruling. The Secretary for Commerce and Economic Development assured members that the consultation would not be shelved indefinitely and the Administration would make the best effort to finalize the consultation paper within a reasonable timeframe.

#### Mobile television (mobile TV) services and development of digital audio broadcasting (DAB) in Hong Kong

29. The Panel was consulted on the implementation framework of mobile TV services and development of DAB in Hong Kong. The Panel expressed concern over the lack of progress in the development of DAB despite years of discussion and increasing public demand for the opening up of airwaves for community channels. In the light of competing demand for frequency spectrum, the Panel was concerned whether the future development of DAB would be significantly restricted by the deployment of frequency spectrum for mobile TV services. The Administration assured members that it was the Government's intention to take the opportunity of developing mobile TV services to also facilitate the roll out of DAB.

30. Referring to the Government's proposal to assign the multiplexes in Band III and the UHF Band and levy the spectrum utilization fee through auction, some members were concerned that small organizations wishing to operate community channels would not have the financial means to meet the high licence fee. They opined that the assignment of frequency spectrum through auction and the universal coverage requirement were advantageous to big financial conglomerates and would create entry barrier for financially less viable groups. Some members considered that the proposed spectrum assignment and licensing regime had failed to cater for the needs of community/minority groups and non-profit making organizations in developing community channels for expression of diverse public views. Noting that community channels were not required to pay a licence fee in a number of overseas jurisdictions, members called for a comprehensive review of the fee structure to facilitate the development of community channels in Hong Kong.

31. Some members pointed out that the current consultation on the development of mobile TV and DAB services had not addressed the needs for the development of community channels in the interests of community/minority groups. In this connection, they suggested that the Administration should put in an additional paper on the development of community radio channels for non

commercial minority/community groups and non-profit making organizations for public consultation. The Administration noted members' suggestion for consideration.

32. From October 2007 to end June 2008, the Panel held a total of 12 meetings.

Council Business Division 1  
Legislative Council Secretariat  
7 July 2008

**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, film services and creative industry.
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 for 2007 - 2008 session**

<b>Chairman</b>	Hon Albert Jinghan CHENG, JP
<b>Deputy Chairman</b>	Hon SIN Chung-kai, SBS, JP
<b>Members</b>	Dr Hon David LI Kwok-po, GBM, GBS, JP Hon Fred LI Wah-ming, JP Dr Hon LUI Ming-wah, SBS, JP Hon Bernard CHAN, GBS, JP Dr Hon Philip WONG Yu-hong, GBS 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 Albert CHAN Wai-yip Hon Ronny TONG Ka-wah, SC  (Total : 13 members)
<b>Clerk</b>	Ms YUE Tin-po
<b>Legal Adviser</b>	Ms Connie FUNG
<b>Date</b>	11 October 2007