

**立法會**  
**Legislative Council**

LC Paper No. CB(1)2781/08-09  
(These minutes have been seen  
by the Administration)

Ref : CB1/PL/ITB/1

**Panel on Information Technology and Broadcasting**

**Minutes of meeting**  
**held on Monday, 13 July 2009, at 2:30 pm**  
**in Conference Room A of the Legislative Council Building**

- Members present** : Hon Andrew LEUNG Kwan-yuen, SBS, JP (Chairman)  
Hon LEE Wing-tat (Deputy Chairman)  
Hon CHAN Kam-lam, SBS, JP  
Hon WONG Yung-kan, SBS, JP  
Hon Emily LAU Wai-hing, JP  
Hon WONG Ting-kwong, BBS, JP  
Hon Ronny TONG Ka-wah, SC  
Hon Cyd HO Sau-lan  
Hon WONG Yuk-man  
Hon Mrs Regina IP LAU Suk-ye, GBS, JP  
Hon Paul TSE Wai-chun  
Dr Hon Samson TAM Wai-ho, JP
- Members attending** : Hon James TO Kun-sun  
Hon CHEUNG Man-kwong  
Dr Hon Priscilla LEUNG Mei-fun
- Member absent** : Hon Timothy FOK Tsun-ting, GBS, JP
- Public officers attending** : Agenda Item III  
Mr Duncan PESCOD, JP  
Permanent Secretary for Commerce and Economic  
Development (Communications and Technology)

Mr Alan SIU, JP  
Deputy Secretary for Commerce and Economic  
Development (Communications and Technology)

Mr Kevin CHOI  
Principal Assistant Secretary for Commerce and  
Economic Development (Communications and  
Technology)A

Agenda Item IV

Mr Duncan PESCOD, JP  
Permanent Secretary for Commerce and Economic  
Development (Communications and Technology)

Mr Alan SIU, JP  
Deputy Secretary for Commerce and Economic  
Development (Communications and Technology)

Mr Kevin CHOI  
Principal Assistant Secretary for Commerce and  
Economic Development (Communications and  
Technology)A

Ms Maisie CHENG, JP  
Commissioner for Television and Entertainment  
Licensing

Miss Angela LUK Yee-wah  
Assistant Commissioner for Television and  
Entertainment Licensing (Entertainment)

Agenda Item V

Mr Duncan PESCOD, JP  
Permanent Secretary for Commerce and Economic  
Development (Communications and Technology)

Mr Jeremy GODFREY  
Government Chief Information Officer

Mr Stephen MAK, JP  
Deputy Government Chief Information Officer  
(Consulting and Operations)

Mr John WONG  
Assistant Government Chief Information Officer (IT  
Strategy)

**Attendance by invitation** : Agenda Item IV

Mr K K YUEN  
Director  
AWTC (LO & LAM) Consultancies Ltd

Ms Venus CHAN  
Programme Manager  
AWTC (LO & LAM) Consultancies Ltd

Agenda Item V

Mr Roderick B WOO, JP  
Privacy Commissioner for Personal Data  
Office of the Privacy Commissioner for Personal Data,  
Hong Kong

Mr Allen TING  
Chief Privacy Compliance Officer  
Office of the Privacy Commissioner for Personal Data,  
Hong Kong

**Clerk in attendance** : Ms YUE Tin-po  
Chief Council Secretary (1)3

**Staff in attendance** : Ms Annette LAM  
Senior Council Secretary (1)3

Ms May LEUNG  
Legislative Assistant (1)6

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Action

**I. Confirmation of minutes of meetings**

(LC Paper No. CB(1)2157/08-09 -- Minutes of meeting held on  
12 January 2009

LC Paper No. CB(1)2104/08-09 -- Minutes of special meeting held on  
21 January 2009

LC Paper No. CB(1)2178/08-09 -- Minutes of meeting held on  
9 February 2009

LC Paper No. CB(1)2180/08-09(01) -- List of outstanding items for  
discussion

LC Paper No. CB(1)2180/08-09(02) -- List of follow-up actions)

The minutes of the meetings held on 12 January, 21 January and 9 February 2009 were confirmed.

**II. Information paper issued since last meeting**

(LC Paper Nos. -- Letter from Hon Mrs Regina IP enquiring about measures taken to enhance liaison and collaboration with digital entertainment parks and incubators in Mainland cities and the Administration's written response)  
CB(1)2016/08-09(01) and (02)

2. Members noted that the above paper had been issued for the Panel's information.

**III. Public consultation on public service broadcasting including issues related to the future of Radio Television Hong Kong and the opening up of radio/TV channels for use of the community**

(LC Paper No. CB(1)2180/08-09(03) -- Administration's paper on review of public service broadcasting and relevant matters

LC Paper No. CB(1)2180/08-09(04) -- Paper on public service broadcasting prepared by the Legislative Council Secretariat (background brief)

LC Paper No. CB(1)711/07-08(01) -- Executive Summary of the "Report on the Study of Public Service Broadcasting for Hong Kong" and the relevant extract on public access channels issued by the Panel in October 2006

LC Paper No. CB(1)711/07-08(02) -- Summary of recommendations in the "Report on Review of Public Service Broadcasting in Hong Kong" and the relevant extract on community broadcasting and public access broadcasting issued by the Committee on Review of Public Service Broadcasting in March 2007)

Presentation by the Administration

3. At the invitation of the Chairman, the Permanent Secretary for Commerce and Economic Development (Communications and Technology) (PSCED(CT)) briefed members on the latest position of the Administration's review on public service broadcasting (PSB) and relevant matters. He said that the report of the independent Review Committee chaired by Mr Raymond WONG to study the future development of PSB in Hong Kong had drawn diverse views on a number of issues from various sectors of the community and Members of the Legislative Council (LegCo). These issues, including the future of Radio Television Hong Kong (RTHK), the provision of community broadcasting services, public access broadcasting, and the question of the allocation and distribution of frequency spectrum, had far-reaching implications for the broadcasting, social and cultural landscape of Hong Kong and would impact upon the future of RTHK. The Administration therefore considered it necessary to study the Review Committee's report thoroughly and to extensively consult the public, including the LegCo, RTHK staff and all stakeholders, before taking a decision on the future of PSB in Hong Kong and related issues. He said that the study currently underway had turned out to be more complex than originally conceived, because a number of issues not covered in the Committee's report had emerged in the course of the study. While priority would be given to completing the review expeditiously, the Administration was not yet in a position to commit to a specific timetable. On the future of RTHK, PSCED(CT) stressed that there was no question of the Administration trying to deprive the normal operation of RTHK. The Administration would uphold the principles of freedom of press and expression, which were core values guaranteed by law. The Government would continue to provide sufficient manpower and financial resources to support the operation of RTHK. In fact, a further increase of 5.5% in the funding provision for RTHK had been sought for 2009-2010. This enabled RTHK to enhance its high definition (HD) production capability by the end of 2009. He assured members that RTHK had and would continue to enjoy editorial independence as provided under its framework agreement with the Government, and its services would not be affected. The consultation paper on PSB and related issues, once ready, would be submitted to the Panel for deliberation.

*Future of RTHK*

4. Ms Emily LAU expressed grave concern about the deferral in releasing the consultation paper on PSB and the future of RTHK, which had been dragging on for a long time and causing much anxiety to RTHK staff. She enquired about the staffing situation and staff turnover of RTHK as well as the plan and timetable for the upgrade of production equipment and facilities and the construction of the new RTHK headquarters in Tseung Kwan O (TKO). She called on the Administration to give a specific timetable for the consultation and to provide statistics on staff recruitment and turnover to substantiate its claim that there was no intention to deprive the normal operation of RTHK.

5. Mr CHEUNG Man-kwong said that among RTHK's current strength of about 700 staff, some 300 were civil servants while the remaining were all non-civil service contract (NCSC) staff. He criticized that the recruitment freeze of RTHK and the lack of promotion prospect and job security had hampered the development of RTHK and adversely affected staff morale. In addition, the upcoming retirement of directorate staff would create a vacuum in the top management echelon. He was disappointed that the re-provisioning of RTHK's headquarters in TKO had been put on hold and that there was no clear plan and timetable for any long-term development of the headquarters. He also expressed grave concern that RTHK's capability to operate effectively would seep away as a result of the deferral in releasing the consultation paper on PSB and the future of RTHK.

6. Mr James TO held the view that the Administration had no intention to transform RTHK into a public broadcaster nor interest in improving PSB in Hong Kong. The Administration's real intention was to make use of the PSB review as an excuse to turn RTHK to become the mouthpiece of the Government or, failing that, to fold it up.

7. In response, PSCED(CT) disagreed that the Government had any intention to deprive the normal operation of RTHK. He stressed that the Administration was committed to ensuring that RTHK was adequately resourced to continue providing quality broadcasting services to the community. In fact, RTHK had been operating well despite challenges and difficulties. Funding had been provided for procuring equipment and facilities for the recording, editing and broadcast of HD programmes. As regards RTHK new headquarters, a site in TKO had been reserved and RTHK was still working on the development proposal.

8. PSCED(CT) advised that among RTHK's current strength of 780 staff, 450 were civil servants, 15 were departmental contract staff and 315 were NCSC staff. As regards staffing ratio between civil servants and NCSC staff, he said that due to the uniqueness of the department's operation and the flexibility to keep pace with changes in technological development, RTHK had a long established tradition of employing contract staff. Such practice was expected to continue regardless of the issue of PSB or the future of RTHK. The Administration had closely monitored the number of NCSC staff in RTHK. In fact, the number of NCSC staff for 2007-2008 had dropped in proportion to the total number of staff. He highlighted that the Administration was well aware of concerns about RTHK staff morale and related issues on promotion and job security and had accordingly maintained a close dialogue with RTHK management and staff union on a full range of management and staffing matters on a regular basis. The succession plan of directorate staff had also been looked into.

9. As regards the timetable of the consultation, PSCED(CT) said that the PSB review was still underway and remained a government priority. However, the Administration was not in a position to give a specific timetable for the consultation at the present stage. He assured members that the Panel would be briefed on the consultation paper as soon as practicable. The findings of the

review, once completed, would be made public and the community and RTHK staff would be engaged in mapping out the future of PSB policy.

10. Ms Cyd HO noted that RTHK was prohibited from employing civil servants and that half of RTHK's programme production staff were on NCSC terms. Despite having their "3+3" contract terms, the 15 staff whose terms should normally be converted to civil service terms were renewed with another three-year NCSC contract. She opined that these repressive measures which deprived the promotion prospect and job security of staff indicated that the Administration had the intention to drive away the staff and deprive the normal operation of RTHK. Moreover, RTHK had been subject to a high frequency of auditing, which discredited its corporate image in the eyes of the public. She called on the Administration to give a target date for reviewing the contracts of the 15 staff concerned, and to resume civil service recruitment immediately. She also requested the Administration to provide statistics on staff wastage during the past few years. In this connection, Ms Emily LAU expressed regret that the Administration had frozen RTHK's recruitment, thereby impeding its normal operation. She opined that RTHK should be allowed to resume recruitment of civil servants regardless of the outcome of the PSB review.

11. Pointing out that the PSB review and the future of RTHK had been dragged on for a long time since 2006, Mr CHAN Kam-lam opined that such a protracted delay was unfair to RTHK staff. He urged the Administration to consider converting those staff who were on "3+3" contract terms to full civil service terms as soon as practicable so as to dispel staff uncertainty and boost staff morale. He opined that the future of RTHK should not be bundled with the PSB review. Although RTHK's overall operation had been smooth in the past, problems in relation to staff morale, management and internal administration had to be addressed promptly to enhance its operational efficiency. He called on the Administration to make the best effort to finalize the consultation paper and widely consult the public and stakeholders on the way forward, hopefully by the end of 2009.

12. PSCED(CT) explained that the "3+3" period was the timeframe for which staff recruited on standard provident fund contract terms would normally be converted to civil service provident fund terms. The management was currently looking into the contracts of these 15 staff. They had been briefed by the management and were fully aware of the circumstances. Their continued employment would not be affected and their job security was no different from any other RTHK staff. Same as any other Government department, RTHK was subject to audit and it was up to the Audit Department to decide how its auditing function was carried out. As regards recruitment, he said that in view of the uncertainty of the future operation of RTHK, the recruitment of civil servants was frozen at the moment in accordance with the prevailing Government practice. The department could employ NCSC staff to meet its service needs, although such arrangement was far from satisfactory. The Deputy Secretary for Commerce and Economic Development (Communications and Technology) added that there were

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no major changes in the number of RTHK staff during the past few years. In fact, more staff were employed to help meet the increase in work arising from the Beijing Olympics in August 2008, the East Asian Games and the 60<sup>th</sup> Anniversary of the founding of the People's Republic of China in 2009. At members' request, the Administration undertook to provide statistics on the staffing situation, turnover and wastage as well as recruitment figures of RTHK for the past few years.

*Review of PSB and related issues*

13. Ms Cyd HO referred to paragraph 6 of the Administration's paper (LC Paper No. CB(1)2180/08-09(03)) which stated that the review had been more complex than at first anticipated as a number of issues not covered in the Review Committee's report had emerged during the review exercise. She queried why such important issues of public concern were not included in the Review Committee's scope of work when the terms of reference (TOR) were first drawn up, and who should be held responsible for not giving such issues enough care and attention. She also questioned who made the decision not to proceed immediately with the consultation on PSB review. In this connection, Mr Paul TSE sought elaboration on the issues which were not anticipated when the Review Committee was first set up and hence were not included in its study.

14. In response, PSCED(CT) said that the Review Committee's TOR was drawn up with particular issues of concern in mind when the Committee was formed in 2006. However, circumstances changed and a number of issues which were not anticipated at that time had subsequently emerged. These included the court case concerning radio broadcasting without a licence under the Telecommunications Ordinance (TO) (Cap. 106) and court cases involving certain LegCo Members for breaching the provisions in the TO. Other unforeseen issues included the introduction of digital TV in 2007, new developments such as the introduction and technical trial of digital radio broadcasting, the growth of Internet broadcasting, as well as the allocation and distribution of frequency spectrum for other uses arising from switching off of analogue broadcasting. He highlighted that all these issues had far reaching implications on PSB and the opening up of air waves for use of the community that required a thorough consideration in a comprehensive study.

15. Mr WONG Yuk-man said that while he appreciated RTHK staff's concern about the future of RTHK and their job security, he considered it more important to safeguard the freedom of speech and the press, and to strive for the setting up of a public broadcaster with editorial independence and its own channels for television and radio broadcasts. He noted that most of the world's advanced economies had an independent public service broadcaster. Therefore, instead of shelving the report of the Review Committee indefinitely, the Administration should make clear its stance on the future PSB policy and provide a timetable for the PSB review and a timeframe for the setting up of a public service broadcaster in Hong Kong. Noting that the consultation paper would not be released until the court cases were completed, Ms Emily LAU said that the indefinite delay would reflect badly on the

Administration. Mr Paul TSE also expressed dissatisfaction that the Administration had not provided a specific timetable for the PSB public consultation. He said that any further delay was unacceptable.

16. In response, PSCED(CT) said that the case concerning unlicensed broadcast was referred by the Court of Appeal to the Magistracy and hearing would resume in September 2009. Other cases involving certain Members for breaching the provisions in the TO were still in progress. He highlighted that as the outcome of the court cases would have implications on the licensing regime, it was important to first establish the legitimacy of the licensing regime before taking forward the PSB review and the related issue of the opening up of air waves. As regards the timetable of the review, he reiterated that the PSB review was still underway and remained a government priority. However, the Administration was not in a position to give a specific timetable for the consultation at the present stage. The Administration would make the best effort to finalize the consultation paper expeditiously to widely consult the public, Members, and other stakeholders including RTHK staff.

17. Mr WONG Yuk-man opined that the outdated TO should be revamped in the light of latest technological and market developments so as to ensure that the regulatory regime remained conducive to the further development of the electronic communications industry in general and broadcasting industry in particular. He urged the Administration to provide a specific timetable to review the matter, and to open up airwaves for public use as frequency spectrum was a public asset. Mr Paul TSE shared Mr WONG's view that the Administration should set a clear policy for the opening up of air waves for public use. Noting that some overseas universities run three to four radio stations and that Shenzhen had more channels than Hong Kong, he criticized the Administration for holding back the opening up of air waves due to political consideration.

18. PSCED(CT) advised that work was underway to work out the specific details of the legislative exercise of setting up the Communications Authority to oversee both the telecommunications and broadcasting sectors in the light of challenges brought about by technological convergence. In response to Mr WONG Yuk-man, PSCED(CT) advised that the Telecommunications (Amendment) Bill 2009 on licensing criteria for sound broadcasting services would be introduced shortly to the LegCo to provide for greater transparency and legal certainty.

### Summing up

19. The Chairman called on the Administration to take note of members' concerns and to finalize the consultation paper on the review of PSB and the future of RTHK as soon as practicable.

**IV. Review of the Control of Obscene and Indecent Articles Ordinance (Cap. 390)**

(LC Paper No. CB(1)2180/08-09(05) -- Administration's paper on review of the Control of Obscene and Indecent Articles Ordinance

LC Paper No. CB(1)2180/08-09(06) -- Paper on issues relating to the control of obscene and indecent articles prepared by the Legislative Council Secretariat (updated background brief)

LC Paper No. CB(1)927/08-09 -- Minutes of meeting held on 20 November 2008

LC Paper No. CB(1)2104/08-09 -- Minutes of special meeting held on 21 January 2009

LC Paper No. CB(1)2250/08-09 -- Administration's paper on review of the Control of Obscene and Indecent Articles Ordinance (power-point presentation material))  
*(tabled at the meeting and subsequently issued via e-mail on 15 July 2009)*

Briefing by the Administration and the AWTC(LO & LAM) Consultancies Ltd

20. With the aid of powerpoint presentation, PSCED(CT) and Mr KK YUEN, the Director of AWTC(LO & LAM) Consultancies Ltd (AWTCC) briefed members on the major findings of the first round of public consultation and the Consultant's recommendations concerning the review of the Control of Obscene and Indecent Articles Ordinance (COIAO), as set out in the Administration's paper (LC Paper No. CB(1)2180/08-09(05)).

Discussion

*The adjudication system and the operation of the Obscene Articles Tribunal*

21. Ms Emily LAU and Ms Cyd HO referred to the Judiciary's views that the present statutory institutional set up of the OAT under the COIAO, whereby the OAT was required by law to perform both administrative and judicial functions, was highly unsatisfactory, and that the present system of adjudicators was highly problematic. They noted that the Judiciary had proposed to remove the administrative classification function from the OAT, leaving it to deal with judicial determinations only, and to replace the present adjudicators system of OAT with a jury system. Ms Cyd HO opined that the carrying out of dual administrative and judicial functions by the OAT was inappropriate and contradicting the principle of separation of powers under the Basic Law. Ms LAU and Ms HO urged the

Administration to liaise with the Judiciary expeditiously to address the issues and improve the operation of the OAT and the adjudication system. Ms Cyd HO noted that according to the public opinion survey conducted by the Public Opinion Programme at the University of Hong Kong (HKUPOP), about 60% of the respondents supported the establishment of a new independent adjudication system and the replacement of adjudicators with jurors, and that about 40% of the respondents were in favour of abolition of the OAT. As such, she queried the validity of the Administration's remark in the Administration's paper (LC Paper No. CB(1)2180/08-09(05)) that "overall there did not appear to be a strong demand for abolishing the OAT".

22. Mr CHAN Kam-lam said that the inconsistency in the classification of articles had caused confusion to the public and undermined public confidence in the classification system. He enquired what measures the Administration would propose in respect of the appointment mechanism and operation of the OAT to help enhance transparency and ensure consistency in classification and avoid repeated occurrence of inconsistent classifications, thus giving the public an impression of differential treatment or selective prosecution.

23. In response, PSCED(CT) said that among other things, a number of issues relating to the operation of the OAT including the composition of its membership, the appointment of adjudicators, and the adjudication procedures would be further examined with a view to enhancing the transparency, representativeness and consistency in the rulings and classifications made by the OATs. Taking into account all the views received, the Administration would draw up concrete feasible proposals to improve the existing regulatory regime for discussion in the second round of public consultation. As regards the OAT's dual role of performing both administrative and judicial functions, the Administration would discuss the issue with the Judiciary and the relevant stakeholders to seek to improve the adjudication system and the operation of the OAT.

24. Mr Ronny TONG said that the OAT had been criticized by the public as ineffective and unrepresentative. Noting the fine line between works of art and works of indecency, and the difficulty of agreeing on a common standard of morality and propriety in a diversified and open society like Hong Kong, Mr TONG said that, apart from defining "indecency" and "obscenity", the Administration should issue some guiding principles and basic criteria to supplement the definitions. As social values and standard of public decency would change over time, the problem of inconsistency in the classification and ruling made by the OAT could not be solved simply by increasing the number of adjudicators. Instead, the Administration should explore how to set up a mechanism to ensure that the adjudicators appointed to the OAT could truly represent the prevailing community values and standards. He urged the Administration to seriously consider these two important core issues which regrettably had not been addressed in the first round of consultation.

25. Mr Paul TSE said that social and moral values were constantly changing, for instance, divorce and bankruptcy were now common phenomena though generally denounced as unacceptable in the past. He agreed with Mr Ronny TONG that a review mechanism should be put in place to ensure that the OAT adjudication and classification systems were keeping in pace with the changing community values and standards of decency. He opined that the current COIAO and the legislative framework for the OAT were outdated and could no longer meet the needs and expectations of the community, and should accordingly be revamped in a new perspective. He expressed support for the separation of administrative and judicial functions and the replacement of the present classification system with a jury system.

26. PSCED(CT) agreed that it was important that prevailing public standards in respect of "obscenity" and "indecent" should be translated into clear provisions to be applied by the OAT consistently. As such, reviews on the operation of the COIAO were conducted from time to time to ensure that the regulatory regime was able to meet the changing needs of the community. He reiterated that having regard to all the views received, the Administration would map out possible concrete improvement proposals for the second round of public consultation, and would consult the public and the Panel in accordance with the usual practice.

*Regulation of the Internet and new form of media*

27. Ms Emily LAU warned against regulation of the Internet which she considered might restrict the free flow of information and freedom of expression. Referring to the suspended implementation of "green dam" filtering software by the Mainland authorities due to public pressure, she said that Hong Kong people and Internet users would not accept restriction on information flow and freedom of expression which were core social values much treasured by the community and basic human rights guaranteed by the law. In this connection, Ms Cyd HO expressed objection against mandatory filtering by Internet service providers (ISPs).

28. Mr CHAN Kam-lam disagreed that regulation of the publication and public display of obscene and indecent articles would jeopardize the free flow of information and freedom of expression. He noted that in view of the prevalence of indecent/obscene content in newspapers and entertainment magazines, and the proliferation of such materials on the Internet, the majority of the community considered legislation necessary to regulate the publication of obscene and indecent articles. Parents and educators, in particular, were in favour of tightening regulation of the Internet. Mr WONG Ting-kwong shared a similar view. He said that most of the parents he came across supported stepping up control to protect the youth and impressionable people from the harmful influence of pornography and objectionable materials on the Internet and in the media. He suggested classifying ISPs and their websites into different categories so that parents could differentiate the filtered websites from those which contained objectionable materials.

29. Dr Samson TAM said that given the technological difficulty in regulating objectionable materials transmitted through the Internet and the practical difficulty in verifying the age of Internet users, the industry's self-regulatory regime in place since 1997 had not been effective. He called on the Administration to step up cooperation with ISPs to formulate effective technological solutions riding on new technologies, and to put in place measures conducive to the healthy development of the Internet industry. Dr TAM noted that filtering software and server-filtering services were already available from some ISPS. However, for various reasons, the adoption rate was not high. He said that the provision of filtering software and server-side filtering services was mainly market-driven. Providers would render such services if there was demand.

30. PSCED(CT) said that the regulation of new media had attracted extensive public discussions and diverse views were received from different quarters of the community during the first round of consultation. While industry members and Internet users strongly opposed to any increased control over the Internet, many members of the general public tended to support tightening Internet regulation. He highlighted that the Government's policy objectives were to strike a balance between safeguarding the free flow of information and freedom of expression on one hand, and protecting minors and impressionable people from obscene and indecent materials on the other. In drawing up the proposals for the second round of consultation, the Administration would take into account the community views as a whole. As regards access to websites, he said that some ISPs had voluntarily provided filtering software options, and server-side filtering services targeting youth were also available from some ISPs. It was a matter of personal choice whether to use such filtering devices. He highlighted that although it was not technologically feasible to enforce complete regulation of materials transmitted through the Internet, and that host websites based overseas were not subject to Hong Kong laws, the Administration however would continue to work with the industry to devise workable solutions.

*Public education and publicity*

31. Mr WONG Ting-kwong said that the Television and Entertainment Licensing Authority should step up training for its staff to enable them to properly carry out their inspection duties. He suggested that the OAT adjudicators should be provided with background information on the articles submitted for classification when making classifications. Moral education should also be stepped up to help young people develop the ability to make the right choice of information.

32. Dr Priscilla LEUNG said that studies and real cases showed that pornography on the Internet as well as sex and violence-laden electronic games had harmful effects on the psychological development of children and impressionable people. As such, legislation to protect children and the impressionable should not be perceived as infringements on basic human rights. While appreciating that

Internet users and ISPs might object to the regulation of the Internet, Dr LEUNG, in her capacity as a parent and an educator, considered tighter legislative control necessary for the protection of children and youth. She opined that although education was important to educate youngsters on healthy use of the new media as well as developing a positive attitude towards sex, education alone could not possibly solve all the problems or replace legislation. She called on the Administration to increase its publicity efforts to help the community better appreciate the rationale behind legislation and to foster a positive attitude towards legislation.

33. Dr Samson TAM called for enhanced efforts to narrow the digital divide, particularly targeting at parents of low-income families, to assist them to better understand the use of the Internet so that they could in turn help their children develop healthy Internet habits.

34. PSCED(CT) noted the suggestions. He said that regulation of new forms of media was a complex issue that had to be carefully examined and deliberated. The Administration would examine the issue and follow up with relevant stakeholders on stepping up public education on moral standards and artistic values. Efforts would also be made to help parents better understand the use of the Internet and educate their children on the healthy use of the new media. The District Cyber Centre programme was one of the initiatives launched to enhance digital inclusiveness of the less privileged groups of the community.

*Second round of public consultation*

35. On the scope of the second round of consultation, Ms Cyd HO enquired whether issues other than the three major areas of concern identified by the Consultant (namely, the definitions of "obscenity" and "indecent", the operation of the OAT, and the handling of Internet and new media) would be excluded. In response, PSCED(CT) said that the analysis and recommendations made by the Consultant did not necessarily represent the position of the Administration. He highlighted that a decision on the major areas of public concern to be included in the second round of consultation had yet to be made based on the submissions received so far, the review and opinion survey findings, the Consultant's recommendations, and views of LegCo Members and the community.

36. Mr Paul TSE noted the findings of the survey conducted by HKUPOP that those with higher education level and make more frequent use of the Internet tended to favour less Internet control, while those with lower education level would more likely support a stricter regulatory system. He suggested that when conducting opinion survey in the future, consideration should be given to accord more weighting to the views of those respondents who were more knowledgeable of the current regulatory system. More neutral terms should be used in place of value-laden terms such as "obscene" and "indecent" which carried a negative connotation.

**V. Information security**

(LC Paper No. CB(1)2180/08-09(07) -- Administration's paper on information security

LC Paper No. CB(1)2180/08-09(08) -- Paper on follow-up actions taken in relation to the data leakage cases concerning government bureaux/departments provided by the Office of the Privacy Commissioner for Personal Data

LC Paper No. CB(1)2180/08-09(09) -- Paper on information security prepared by the Legislative Council Secretariat (updated background brief)

Briefing by the Administration

37. PSCED(CT) briefed members on the progress of Government's information security enhancement programme since the last update in December 2008, details of which were set out in the Administration's paper (LC Paper No. CB(1)2180/08-09(07)).

Discussion

*Notifying the Privacy commissioner for Personal Data and affected data subjects of data leakage incidents*

38. Ms Emily LAU noted that a number of personal data leakage incidents involving Government departments/bureaux and public bodies had not been brought to the attention of the Privacy Commissioner for Personal Data (PCPD), and the cases only came to light through media reports. She sought clarification on the Government's policy on notifying PCPD and affected data subjects of the data leakage incidents.

39. In response, the Government Chief Information Officer (GCIO) advised that within the Government, all security incidents in electronic form would be reported to the Government Information Security Incident Response Office (GIRO), while PCPD would be notified of all incidents involving leaks of personal data in electronic form. He said that the issue of whether it should be made a mandatory practice to report all losses of personal data in hard copy to PCPD in similar way would be further examined. PSCED(CT) added that affected data subjects, except those for whom there was no sufficient contact information for follow-up, would be notified of the leakage as far as practicable. Exception to these rules were permitted only when there was an overriding public interest consideration, in which case the approval of the head of the bureau/department concerned would have to be

sought.

40. In response to Ms Emily LAU's enquiry about the follow-up actions taken by the PCPD in respect of the personal data leakage incidents that had been brought to his attention, PCPD said that preliminary enquiry and compliance checks would be carried out to ascertain whether there were breaches of the requirements of the Personal Data (Privacy) Ordinance (Cap. 486) or the data protection principles. Remedial measures would be recommended to the data users to rectify the situation. Data users, and in the case of the Government, the head of department or high ranking officials, were required to make a written undertaking to make improvement to its future conduct and take prompt remedial actions in such form as recommended by him. He was empowered by the Ordinance to initiate investigation into suspected cases of contravention. In case of contravention, enforcement notice would be issued to data users as appropriate. Repeated offenders for non-compliance would be subject to criminal prosecution. PCPD further opined that his office should be informed of all incidents involving the loss and leakage of personal data in both electronic and paper form. While Government departments and bureaux in general had been cooperative, he said that more speedy response from the departments and bureaux concerned would facilitate his office to make a timely investigation and provide prompt advice on remedial measures to be undertaken.

41. In this connection, Ms Emily LAU urged the Government to disclose all data leakage cases and to notify the affected data subjects as far as practicable. The Government should also notify PCPD of all personal data leakage either in paper or electronic form. The departments and bureaux concerned should cooperate with PCPD upon PCPD's enquiry into the cases which had not been reported to PCPD. PSCED(CT) noted the suggestion and undertook to convey members' concern to the relevant bureaux.

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*Disciplinary actions against staff causing data leakage*

42. Ms Emily LAU enquired about the disciplinary actions taken against those civil servants who had not exercised due care and prudence in handling sensitive or personal data. GCIO said that Government bureaux/departments involved in the data leakage incidents had either completed or were conducting thorough investigation into the incidents. Appropriate actions including disciplinary actions would be taken in accordance with the established disciplinary mechanism against those officers who had violated the security regulations and procedures. Penalties ranging from warning to dismissal would be imposed as appropriate depending on the nature and seriousness of the breaches. The Deputy Government Chief Information Officer (Consulting and Operations) (DGCIO(C&O)) informed the meeting that 10 incidents had been reported in the first two quarters in 2009, of which six incidents involved data leakage. The Administration had completed investigation of four cases and had taken disciplinary action against the officer concerned in one case.

*Strengthening information security posture*

43. Dr Samson TAM expressed concern that further data leakage would undermine public confidence in information security and personal data protection, thus hampering the implementation of the E-Government initiative. Noting that Government bureaux and departments differed greatly in their information technology and security capability, he enquired about the timetable for adopting international security standards across the Government bureaux and departments. He also enquired about the measures in place to safeguard the Government IT system from malicious attacks of hackers.

44. In response, DGCIO(C&O) advised that the Administration regularly reviewed the IT security related regulations, policies and guidelines to ensure that they were up-to-date with technological advancement, international developments and industry best practices. In January 2009, the Office of the Government Chief Information Officer (OGCIO) initiated a review and intended to promulgate the revised regulations, policies and guidelines by the end of 2009. The review would benchmark the Government security policies against those countries advanced in IT as well as prevailing international standards. Bureaux and departments were required, as a standard practice, to carry out security risk assessment of their information systems at least once every two years, and also for new information systems before their launching. Arising from the series of data leakage, a special security audit had been conducted for bureaux and departments to identify reasons for non-compliance and draw up improvement measures to address the problems identified. He assured members that the Administration would keep in view security challenges resulting from technological advancement to uphold a high standard of information security that was in pace with international standards.

45. As regards safety measures against malicious attacks from hackers, DGCIO(C&O) said that various technical tools and solutions such as firewalls and protection software were deployed to safeguard against security threats and cyber attacks. Each bureau and department was required to put in place security measures and contingency plans, and conduct regular tests on such plans. GIRO would provide central co-ordination to bureaux/departments in the handling of Government information security incidents in the event of emergencies involving security threats and hacking, and provide appropriate advice and assistance on information security matters as and when necessary.

46. Dr Samson TAM called on the Government to encourage private sector companies to strengthen their information security posture, and to increase the resources to the Hong Kong Computer Emergency Response Team Coordination Centre (HKCERT) to enable it to better assist private business enterprises to enhance their information security capability. DGCIO(C&O) replied that the Government was very supportive of security promotion events organized by private institutes or security associations. OGCIO had been regularly organizing conferences and seminars, in close collaboration with the industry and organizations such as HKCERT, advising the public on security threats such as

Botnets. HKCERT had been provided with additional resources in the current financial year to promote and strengthen information security in the private sector.

47. In response to Ms Emily LAU's enquiry about the use of technical tools and solutions for data protection, DGCIO(C&O) said that security technologies and solutions including storage encryption tools were widely deployed to minimize the risks of data exposure. OGCIO had provided channels to facilitate acquisition of such solutions by bureaux and departments. There were different classes of USB encryption solutions providing various levels of protection. Bureaux and departments could select the appropriate solutions for use depending on their business requirements. The independent security audit of all bureaux and departments completed in May 2009 found that bureaux and departments' information systems were in general compliant with Government's security requirements. OGCIO would follow up with the bureaux and departments concerned on the weaknesses identified and continue to provide them with the latest technology updates and technical solutions as appropriate.

48. Mr WONG Ting-kwong enquired whether the Government websites had ever been hacked into and whether there was any leakage of personal data and sensitive information arising from the loss of personal computers (PCs) and notebooks. DGCIO(C&O) said that like all other enterprises, the Government was not immune from information security risks and data leakage. While there had been malicious attacks of Government websites such as intrusion attempts and web defacements, the cases had been quickly remedied and no internal systems were affected. Bureaux and departments had been advised to be vigilant to malicious intrusion and penetration attempt. In addition, 24-hour intrusion detection system had been advised to be installed to alert the concerned bureau and department of any unusual activities. All security incidents including the leakage of classified data through the loss or theft of portable electronic storage devices, PCs, notebooks and handheld communication devices had to be reported to GIRO.

*Concern about the mandatory installation of the filtering software "green dam"*

49. Ms Cyd HO referred to the compulsory requirement in the Mainland that computers must install the filtering software "green dam" whereby data in the computers would be transferred to a central system for monitoring. Ms HO expressed concern whether the computers of the offices of the Hong Kong Special Administrative Region (HKSAR) Government in the Mainland had been installed with such filtering software. Although the mandatory requirement was subsequently dropped, she asked whether the computers of the offices of the HKSAR Government in the Mainland would be exempted in the event that the compulsory installation requirement was reinstated in future.

50. In reply, PSCED(CT) said that presently none of the computers in the HKSAR Government offices contained such filtering software. As far as he understood, the mandatory installation of the filtering software was originally intended for computers sold in the Mainland with effect from 1 July 2009.

Way forward

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51. The Chairman requested the Administration to take note of members' concerns and update the Panel on the progress of various information security enhancement initiatives. Ms Emily LAU requested that when updating the Panel on the progress of the security initiatives in a year's time, the Administration should provide, in a table form, detailed information on the number of data leakage incidents, the nature of the leakage, follow-up action including whether the incident had been reported to PCPD and any disciplinary action taken.

**VI. Any other business**

52. The Chairman thanked members and representatives for attending the last regular Panel meeting of the 2008-2009 legislative session and their contribution in past meetings.

53. There being no other business, the meeting ended at 5:20 pm.

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