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Panel on Information Technology and Broadcasting

Meeting on 7 April 2009

**Background brief on
review on administration of Internet domain names in Hong Kong**

Purpose

This paper provides the background on review on administration of Internet domain names in Hong Kong and also a summary of views and concerns raised by Members and the Panel on Information Technology and Broadcasting (the Panel).

Background

2. In 2002, the Government designated the Hong Kong Internet Registration Corporation Limited (HKIRC), an independent, non-profit making, membership-based company, to manage and administer ".hk" Internet domain names through a Memorandum of Understanding (MOU).

3. In the light of the latest international and regional developments in the administration of Internet domain names, Government Chief Information Officer (GCIO) commissioned a consultancy study in 2006 to review the institutional framework and corporate governance for the administration of ".hk" Internet domain names. Taking into consideration the consultant's recommendations and the overall information and communications technology strategy in Hong Kong, the Administration issued a public consultation paper on 4 May 2007 setting out the following recommendations:

- (a) delegation by the Government of the country code top level domain (ccTLD) management function to an arms-length, not-for-profit organization, i.e. HKIRC, should be retained;
- (b) HKIRC should establish a Consultative and Advisory Panel (CAP) that engaged a broad set of stakeholders to advise the HKIRC Board;

- (c) with the strategic engagement of key stakeholders being undertaken via the new CAP, the number of directors on the HKIRC Board could be reduced to allow more effective strategic and operational management;
- (d) HKIRC should publish a comprehensive corporate governance framework;
- (e) HKIRC should introduce a "registry-registrar" model, whereby appropriate bodies could provide ".hk" users with registrar services on an equal and competitive basis; and
- (f) HKIRC should collaborate with the Government on a formal review of the MOU to be undertaken five years after execution.

4. With the general support received during the consultation and having regard to the Panel's view at its meeting on 11 June 2007, the Government started in October 2007 the discussion with the HKIRC on the detailed implementation arrangements for the recommended changes.

Previous discussions

5. The Panel has followed closely the review on administration of Internet domain names in Hong Kong since June 2007. In general, Panel members supported the move towards enhancing corporate governance for the administration of ".hk" Internet domain names. They considered such a change should be introduced much earlier to ensure effective strategic and operational management. Members also raised questions at various Council meetings on the security problem of websites using domain names ending with ".hk" and the governance structure of the HKIRC.

Corporate governance, transparency and accountability of the HKIRC

6. At the Panel meeting on 11 June 2007, the Panel noted that apart from the one Government representative nominated by GCIO, the remaining members of the new CAP would be invited by the Government from the Internet community, including end users, industry, academia, as well as renowned and independent organizations and individuals. Some members were of the view that members of the CAP who were appointed in their personal capacity had no obligation to consult or report to the industry, whereas representatives nominated by the industry would be accountable to the organization/industry they represented. Some members had reservation about the appointment arrangements which might result in undue Government influence and control in the operation of the Board and the CAP. They urged the Administration to consider allowing the industry to elect more representatives to the Board of the HKIRC, and allowing the industry to nominate

members for appointment to the CAP, so as to increase the industry's representation at both the Board and the CAP level.

7. The Panel noted that the HKIRC Board, in making its decisions, would be duty-bound to take full account of the guidance of the CAP which represented the interests of a wide spectrum of Internet community. A transparent mechanism would be put in place for the Board to account for its decisions that were inconsistent with the advice of the CAP. The new MOU would further set out in detail the information and reports to be regularly published by the HKIRC. Some members suggested that the Administration should request the HKIRC to post, as far as practicable, relevant papers and minutes of meetings on non-commercially sensitive issues on its website to enhance transparency and accountability. HKIRC should also conduct open meetings where possible. The Administration assured members that the HKIRC would be requested to conduct its activities in an open and transparent manner to enable easy public access to all relevant information. The Administration would regularly report developments of related issues to the Panel.

Registry-registrar model

8. The Panel raised concern about the financial position of the HKIRC, in particular, whether the introduction of the registry-registrar model to bring in competition would strain the HKIRC's financial position and result in added pressure for a fee increase. The Administration advised that domain name registrations had increased steadily from 60,000 to 140,000 over the past few years and was expected to register a continued steady growth in the future. It was envisaged that at the present fee level, the HKIRC would remain financially sound with a steady revenue stream.

9. Some members were of the view that the financial soundness of the accredited registrars in providing registration service was an important consideration. The Administration should conduct financial analysis to assess the possible impact of increase competition on the HKIRC's financial position. The Administration advised that the HKIRC would be required to submit a Five-Year Strategic Plan in 2009, including conducting an in-depth market analysis and assessing the financial implications and the methods of recruiting service providers. The Administration would ensure that the HKIRC would undertake the necessary financial assessment and market analysis and would regularly update the Panel on developments in this respect.

Technical competency of the HKIRC

10. Some members raised concern about measures to ensure the technical competency of the HKIRC to respond robustly to new technological and market developments which might impact on domain name registration. The Administration advised that a Technology Committee had been set up to oversee the development and the quality of the technical standard to ensure competency to

abide by the requisite technical requirements necessary for preserving the integrity and security of the system.

Progress of implementing the recommended institutional changes to the governance structure of the HKIRC

11. At the special meeting of the Panel held on 11 December 2008, the Administration updated members on the progress of implementing the recommendations of the review of the administration of Internet domain names in Hong Kong. The Administration also briefed members on the changes to the governance structure and the accountability of the HKIRC, as well as the guiding principles on the role of Government in the administration of the ccTLD generally adopted by the global Internet community.

12. Hon James TO objected strongly to the new governance structure of the HKIRC and expressed serious reservation over the composition and the appointment mechanism of the Board of Directors and HKIRC's CAP. He pointed out that under the new institutional regime, the number of directors on the HKIRC Board would be reduced from 13 to eight, of which only four directors would be elected by members of the company, with the remaining four directors appointed by the Government. Apart from the one Government representative nominated by GCIO, the remaining members of the new CAP established to advise the Board on major ccTLD domain issues would all be appointed by the Government. He was gravely concerned that the proposed appointment arrangements would enable the Government to have substantial undue influence over the operation of the Board and the CAP, which might undermine freedom of expression. Some members considered such arrangements a retrograde step in corporate governance. They were disappointed that the Government had not taken on board the Panel's concern raised at its meeting on 11 June 2007, and their suggestion to increase the industry's representation at both the Board and the CAP level.

13. The Administration disagreed that the Government was trying to curb freedom of expression and free flow of information through controlling the HKIRC. The Government had no intention to take control of the HKIRC and the administration of the Internet domain names. As recommended by the consultant, the Government would continue to delegate the ccTLD management function to the HKIRC. There would no longer be any Government officials sitting on the Board. Under the new arrangements, the CAP would be a forum for stakeholder representation and would be constituted through a transparent and open process whereby nominations for candidates would be sought from a number of organizations considered representative of the various stakeholder groups. A selection committee, comprising Board members under the new Board structure and a representative from the Government who was a member of the CAP, would consider the nominations from the invited organizations to ensure a balanced mix of representation from the stakeholder groups. Individuals and other organizations could also make nominations to the CAP.

14. At the Panel's request, the Administration undertook to provide information on whether there was any corporation/public body under which members of its advisory or consultative committee(s) were all appointed by the Government, similar to the appointment mechanism of the CAP, and the name of such bodies and details of the governance structure and appointment mechanism.

15. Some Panel members opined that domain name registration could be a sensitive issue, whereby political organizations or set-ups opposing the Government could be denied registration and the Government might restrict the registration of politically sensitive domain names through the directors appointed by the Government. The Administration stressed that the proposed changes were in line with the relevant principles and guidelines issued by the Internet Corporation for Assigned names and Numbers. Freedom of speech would be further protected and assured by putting in place a clear set of policies and procedures for the operation of the HKIRC to ensure transparency and good corporate governance. The new MOU would also incorporate arrangements to ensure that domain name registration would be processed fairly in the interests of the community and to instil confidence that the HKIRC would act to uphold freedom of expression. The Administration assured members that when the MOU and the CAP were put in place, there would be ample opportunities for the public and the Panel to participate in shaping the operation of the HKIRC to ensure transparency and improve corporate governance.

Subscription fees of ".hk"

16. Panel members raised concern about the subscription fees of ".hk" domain names which were almost three times higher than those of ".com" domain names. The Administration explained that ".com" was practically open to all and no checking was required, while documentation such as the certificate on business registration was required for ".hk". Therefore, higher administration costs were involved for checking and processing ".hk" applications by the registrar. Nevertheless, the Administration undertook to convey members' concern about the pricing level to the HKIRC for consideration.

Latest position

17. The Administration will brief the Panel on the new institutional arrangements of the HKIRC at the Panel meeting on 7 April 2009. The Panel will invite representatives of relevant stakeholders to attend the meeting to present their views on the subject.

Relevant papers

Information paper provided by the Administration for the Information Technology and Broadcasting Panel meeting on 11 June 2007

<http://www.legco.gov.hk/yr06-07/english/panels/itb/papers/itb0611cb1-1831-3-e.pdf>

Minutes of Information Technology and Broadcasting Panel meeting on 11 June 2007

<http://www.legco.gov.hk/yr06-07/english/panels/itb/minutes/itb070611.pdf>

Hansard on Oral Question No. 2 raised by Hon Andrew LEUNG on security problem of web sites using domain names ending with ".hk" at the Council meeting on 25 June 2008

http://www.legco.gov.hk/yr07-08/english/counmtg/agenda/cmtg0625.htm#q_2

Hon James TO's question on administration of Internet domain names at the Council meeting on 3 December 2008 and the Administration's reply

<http://www.legco.gov.hk/yr08-09/english/panels/itb/papers/itb1211cb1-380-1-e.pdf>

Information paper provided by the Administration for the Information Technology and Broadcasting Panel meeting on 11 December 2008

<http://www.legco.gov.hk/yr08-09/english/panels/itb/papers/itb1211cb1-369-1-e.pdf>

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