

# 立法會

## *Legislative Council*

LC Paper No. CB(1)2109/08-09

Ref. : CB1/PL/ITB

### **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 2008-2009 session of the Legislative Council. It will be tabled at the Council meeting on 8 July 2009 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, 11 July 2007 and 2 July 2008 for the purpose of monitoring and examining Government policies and issues of public concern relating to information technology, telecommunications, broadcasting, film services and creative industry. The terms of reference of the Panel are in **Appendix I**.

3. The Panel comprises 13 members. Hon Andrew LEUNG Kwan-yuen and Hon LEE Wing-tat were elected Chairman and Deputy Chairman of the Panel respectively. The membership list of the Panel is in **Appendix II**.

#### **Major work**

##### Information security

4. In the wake of a series of incidents of the loss of USB memory sticks containing personal data held by Government bureaux/departments and public hospitals, the Panel expressed grave concern about the protection of personal data, safeguarding information security and the handling of sensitive personal data by the Government and public bodies. Panel members were keen to ensure that appropriate measures were in place to reduce the risk of further leakage and prevent recurrence of similar incidents, so as to restore public confidence in the

handling of personal data by the Government. Given the convenience and the popular use of the Internet and portable electronic storage devices, some members urged the Administration to adopt advanced data protection technologies, such as advanced USB flash drives with encryption and password lockdown, and virtual private network notebook computer using a secure network with encryption and authentication features. Some members suggested that Government bureaux/departments should check whether any classified Government documents were circulating on the Internet through the use of Foxy or other peer-to-peer file sharing applications, and take immediate action to remove such documents from the Internet.

5. Panel members expressed concern that these data leakage incidents revealed the prevalence of staff taking confidential documents and sensitive data home for work as this posed risk of data leakage. Some members were of the view that the management should also be responsible, to a certain extent, for the data leakage. If taking work home was necessary for operational reasons, the Administration/management should set out clear guidelines, put in place measures to ensure safe transit of data between home and office, and provide a secure computing environment for staff authorized to work at home. Panel members considered that Government should ascertain the extent of staff taking sensitive data to work at home and draw up quantifiable yardsticks as benchmarks to measure the level of staff awareness, so as to assess the effectiveness of the security enhancement measures. Staff should also be provided with technical support and advice and education to raise their awareness of security issues. Enforcement and internal management should be strengthened to ensure compliance with the relevant security regulations and guidelines. Some Panel members considered that disciplinary actions and a formal record in staff performance appraisal file would be effective deterrents for civil servants who had not exercised sufficient care and prudence in handling sensitive or personal data.

6. The Panel noted that all data users in the public and private sectors were subject to the Personal Data (Privacy) Ordinance (PDPO) governing privacy and personal data security, and were required to take every practicable steps to avoid unauthorized disclosure of all sensitive data, either in paper or electronic form. In this connection, Panel members considered that the Privacy Commissioner for Personal Data (PCPD) should be provided with sufficient manpower and resources to discharge its statutory function of safeguarding and protecting personal data security. Panel members also urged that the PDPO should be reviewed as soon as practicable to ensure sufficient protection of personal data, and to make breaches of privacy a criminal offence. The Administration advised the Panel that the review would go through the necessary consultation and legislative procedures. As regards members' suggestion that the PCPD and the data subjects affected by the leakage of sensitive and personal data should be notified of the leakage as soon as possible, the Administration advised that the bureau/department concerned was required to report the incident to both the PCPD and the Government Information Security Incident Response Office. Whether affected data subjects would be notified of the leakage would depend on

individual circumstances.

7. Concerning about the series of data leakages in the Hong Kong Police Force (HKPF), the Panel requested the Administration to provide information on the outcome and findings of the security risk assessment conducted on the security provisions for the staff of HKPF in handling personal or sensitive data, which should cover working outside of the office environment, and also the improvement programmes and follow-up actions implemented to mitigate risk factors identified. The Administration would brief the Panel on these matters in due course.

#### Review on administration of Internet domain names in Hong Kong

8. The Panel followed up the progress of the review on administration of Internet domain names in Hong Kong. Panel members noted the changes to the governance structure and the accountability of the Hong Kong Internet Registration Corporation Limited (HKIRC), and the proposed enhancement of HKIRC's public accountability through a new Memorandum of Understanding (MOU) to be signed with the Government. 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 to the Board to HKIRC by the Government.

9. The Panel also met with representatives of relevant stakeholders to gauge their views on the subject. Matters discussed included the key elements and the legal status of the MOU, freedom of expression, the political consideration and the process of appointing four directors to the Board to HKIRC by the Government, processes for nomination and selection of individual to serve on the Consultative and Advisory Panel (CAP) established under the HKIRC, openness and transparency of the operation of the HKIRC, "Registry-Registrar" model and subscription fees. Regarding the subject matters to be advised on by the CAP, the Administration undertook to remind the HKIRC to take into account the comments and suggestions made by members and the deputations concerning the company policies and operational matters. The Administration would further consult the CAP and the public on the draft outline of the MOU, taking into account comments made by members and the deputations before finalizing the MOU. Freedom of speech would be protected 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.

### Release of spectrum for expansion of the second generation mobile service and mobile TV services

10. In December 2008, the Administration briefed the Panel on the assignment of the available radio spectrum in the 1800 MHz Band for public mobile service to the incumbent Mobile Network Operators to allow for service expansion. The Administration also briefed the Panel in January 2009 on the implementation framework for development of mobile TV services, the proposed auction arrangements, the related legislative amendments for the auction of the relevant radio spectrum and the multiplexes in Band III (174 – 230 MHz) and the UHF Band (470 – 806 MHz) as well as the levying of the spectrum utilization fee (SUF) through auction.

11. Some Panel members considered the proposed light-handed regulatory approach for mobile TV services a move in the right direction, as this would allow programme diversity and facilitate a wide variety of programme choices to the public. Some members were concerned that small organizations and new entrants would not have the financial means to meet the high licence fee. They opined that the assignment of frequency spectrum through auction would be advantageous to large financial conglomerates and create barrier for financially less viable groups to enter the market.

12. To enable the release of relevant radio spectrum and multiplexes in Band III and the UHF Band by auction, three pieces of subsidiary legislation under the Telecommunications Ordinance (Cap.106) were gazetted on 6 February 2009 and tabled for negative vetting at the Council meeting on 11 February 2009. Following scrutiny by a subcommittee formed under the House Committee, the relevant Regulations came into operation on 3 April 2009.

### Progress update on the implementation of digital terrestrial television broadcasting

13. On the implementation of digital terrestrial television (DTT) broadcasting, the Panel noted that the two domestic free television programme services licensees, namely Asia Television Limited (ATV) and Television Broadcasts Limited (TVB), would continue to expand the digital network in phases. Between 2009 and 2011, 22 more fill-in stations would be built, of which five stations at Sheung Yeung Shan, Sai Wan Shan, Piper's Hill, Brick Hill and Beacon Hill would be completed within 2009. Members urged the Administration to discuss with ATV and TVB to further enhance their DTT services with a view to introducing a more variety of quality programmes to the viewing public.

14. Given that some households could not afford to purchase DTT receivers or more expensive TV sets for reception of DTT programmes, some Panel members called on the Administration to consider putting off the analogue switch-off which would force households to replace their analogue TV sets. Nevertheless, other members urged for an increase in the digital coverage so to

achieve close to 99% of the population and to expedite analogue switch-off as early as practicable.

### Digital 21 Strategy and E-Government

15. Regarding the implementation of the digital 21 Strategy, the Panel noted that the Administration had finalized the Statements of Desired Outcomes (SDOs) for the five action areas, namely facilitating a digital economy, promoting advanced technology and innovation, developing Hong Kong as a hub for technological cooperation and trade, enabling the next generation of public services, and building an inclusive, knowledge-based society. Some members considered the SDOs too general and suggested that relevant data/statistics and the outcome/progress achieved for each of the five action areas should be set out side by side for easy comparison. The Administration assured members that it would develop more concrete programmes in pursuit of the desired outcomes in each of the action areas. Based on the qualitative descriptions of the desired outcomes, quantifiable measures and benchmarks would be defined and set as the key performance indicators to measure the progress.

16. Some members expressed concern about the staff lay-offs in the information and communication technology (ICT) sector. They considered that the Administration should help unemployed ICT professionals remain in the industry, such as by taking initiatives to create more IT jobs under the E-Government programme. In this connection, Panel members noted that most of the Government IT projects were awarded to large IT service providers and suppliers, and suggested the Administration consider sub-dividing the projects into smaller items, so as to provide more opportunities for small and medium sized enterprises (SMEs) in the IT sector to bid for the contracts. Panel members also requested the Administration to consider whether the overall Government procurement policy and the Government Procurement Agreement under the World Trade Organization would enable local ICT SMEs to bid for contracts for providing IT software programming and consulting services.

### Cyberport project

17. The Panel followed up closely the progress of the Cyberport project. Some members upheld strong objection against the Government's decision to award the project to the Pacific Century Group without going through the established procedures. These members remained concerned that the Administration had set a bad example of collaboration with the business sector, and that the Project was in fact a real estate development project rather than promoting IT development.

18. The Panel was disappointed that the Administration had not made much progress in achieving the six public missions of the Cyberport project, in particular, those relating to developing a regional centre of excellence in IT, nurturing and supporting the development of small and medium IT enterprises, and creating a strategic cluster of quality IT and IT related companies for

developing Hong Kong into a leading digital city in the region. The Panel urged the Administration and the Cyberport management to strengthen their efforts in achieving the public missions and to deliver tangible results.

19. The Panel nevertheless noted that there was an increase in the operating revenue to \$319 million for the year 2007-2008, as compared with \$263 million in 2006-2007 and \$188 million in 2005-2006.

#### District Cyber Centres

20. The Administration briefed the Panel on the latest development and future expansion plan of the pilot scheme on District Cyber Centres (DCC). Members expressed support for the pilot scheme which aimed at enhancing digital inclusion of needy groups in the community. Members opined that it would be a long-term process to narrow the digital divide and eliminate cross-generation poverty. To achieve this objective, Government commitment and continued funding support were important for the success and sustained development of the digital inclusion initiatives. The Administration advised that the DCCs would provide computer facilities, Internet connectivity, and technical support to help narrow the digital divide, enabling young people from poor families and other needy members of the community to access and use ICT and online services and helping them integrate into information society. Some members suggested that the Administration should devise performance indicators to assess how far the DCC pilot scheme could achieve the objectives of digital inclusion, and also step up liaison with the 18 districts and compile district-based data on digital inclusion.

21. Panel members also called on the Government to expand the computer recycling programme to provide DCCs with recycled computers. The Administration advised that discussions were being held with a number of mobile operators to sponsor free wireless Internet access for users of loaned laptops at home.

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

22. Following the launch of public consultation on the review of the Control of Obscene and Indecent Articles Ordinance (COIAO) on 3 October 2008, the Panel held two meetings to receive views from deputations and members of the public on the subject. 85 groups/individuals gave views on issues involving women, youth, information technology, education, press and publication, culture and arts, civic rights, and social morals. Members noted that the community had divergent views on the review of COIAO. Some deputations strongly objected to mandatory filtering by Internet service providers and the tightening of Internet control for fear that this would jeopardize basic human rights such as freedom of expression and free flow of information. Some deputations held the views that the consultation/review should be discontinued and that more resources be used to step up sex education for young people to help them develop a positive and healthy attitude towards sex. However, some other deputations

called for tighter controls on obscene and indecent materials.

23. Some Panel members suggested that the Administration should strike a balance between protecting the youth from indecent and obscene materials on one hand and preserving the free flow of information and the freedom of expression on the other in reviewing the COIAO. Given the transient and extraterritorial nature of the massive information flow on the Internet which would not be subject to the laws of Hong Kong, some members called on the Government to carefully address the legal and technical problems involved in Internet control. The Administration noted the views expressed by deputations and Panel members and would further discuss with the Panel when proposals were ready for the second round of public consultation.

#### Film Development Fund

24. The Panel held a meeting in April 2009 for representatives of the industry players to give views on the implementation of the Film Development Fund (FDF), following the Government injection of \$300 million to the Fund to provide financial support for the production of small-to-medium budget films and to finance projects that would also benefit the long-term development of the film industry.

25. The Panel called on the Administration to consider the suggestions put forward by members and deputations to streamline the application and vetting procedures, and to further improve the operation of the FDF to meet the needs of the film industry. The Administration assured members that it had been fine-tuning the application procedure in consultation with the industry, and had organized seminars and provided samples of the legal documents to the industry to facilitate their completion of the legal procedures relating to their applications. The Administration would also formulate improvement measures based on the feedback received.

#### Creative industries

26. Following the announcement of the Financial Secretary in his 2009-2010 Budget Speech that the Government would earmark \$300 million to support the development of creative industries in the coming three years, the Administration briefed the Panel on the preliminary strategy for developing the creative economy in Hong Kong with the vision to build Hong Kong into a regional creative capital and the mission to foster a conducive environment to facilitate creative industries development in Hong Kong. Members supported in principle the Administration's proposal to set up a dedicated office, namely Create Hong Kong (CreateHK), under the Communications and Technology Branch of the Commerce and Economic Development Bureau, and the creation of a new Head of CreateHK.

27. Panel members considered that the setting up of CreateHK was a timely move to drive the development of creative industries. They were keen to ensure

that the office, through coordination of Government policy and integration of resources, could work closely with the trade to boost the development of creative industries. Some members commented that the vision and mission of building Hong Kong into a regional creative capital and fostering a conducive environment for creative industries were very vague. They considered that comprehensive strategies and long-term policy should be drawn up to provide a clear roadmap for promoting creative industries.

28. The Panel welcomed the Administration's proposal to fill the post of the Head of CreateHK through open recruitment in order to tap the resources and talent of the private sector. Some members were concerned whether the Head of CreateHK, pitched at D3 level, would have sufficient authority to effectively oversee and coordinate Government policies and efforts relating to creative industries among various departments and bureaux. The Administration advised that there was overall policy coordination and established communication channels within the Government, and the ranking of the Head of CreateHK should not be a concern.

29. The Panel also supported in principle the Administration's proposal to set up a \$300 million CreateSmart Initiative (CSI), and to centralize the management of various existing funding resources relating to creative industries under CreateHK. On the eligibility and assessment criteria as well as the modus operandi of the CSI, some members called on the Administration to put in place a fair, open and transparent vetting and approval mechanism to ensure fair assessment of the applications. The Administration assured members that it would liaise closely with the trades on the scope of CSI and formulate long-term strategies and detailed implementation plans for the development of creative industries in collaboration with the stakeholders.

#### Other issues

30. The Panel followed up with the Administration some members' concern about the corporate competence, financial, technical and programming capability, freedom of press and self-censorship of the two domestic free television programme service licensees (i.e. ATV and TVB) arising from the layoffs that had drawn public concern on the provision of domestic free television programme service. As the frequency spectrum was a scarce public resource, members urged the Administration to conduct the mid-term review of domestic free television programme service licences of ATV and TVB as soon as possible to ensure that they were still capable of providing services in accordance with the relevant statutory requirements under the Broadcasting Ordinance (Cap. 562) and the provisions in their licence conditions. The Administration would brief the Panel on the details of the matter in due course.

31. Some Panel members expressed grave concern about the deferral in releasing the consultation paper on public service broadcasting and the future of the Radio Television Hong Kong (RTHK) as well as the opening up of radio/TV channels for use of the community which had been dragged on for a long time.



Members urged the Administration to make the best effort to finalize the consultation paper and to widely consult the public and RTHK as soon as possible. As such, members requested the Secretary for Commerce and Economic Development to brief the Panel on the latest progress of the matter and the timetable for the consultation before the end of the current legislative session.

32. From October 2008 to end June 2009, the Panel held a total of 14 meetings and conducted a visit to the Television and Entertainment Licensing Authority.

Council Business Division 1  
Legislative Council Secretariat  
30 June 2009

**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 2008 - 2009 session**

<b>Chairman</b>	Hon Andrew LEUNG Kwan-yuen, SBS, JP
<b>Deputy Chairman</b>	Hon LEE Wing-tat
<b>Members</b>	Hon CHAN Kam-lam, SBS, JP
	Hon WONG Yung-kan, SBS, JP
	Hon Emily LAU Wai-hing, JP
	Hon Timothy FOK Tsun-ting, GBS, 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-yee, GBS, JP
	Hon Paul TSE Wai-chun
	Dr Hon Samson TAM Wai-ho, JP
	(Total : 13 members)
<b>Clerk</b>	Ms YUE Tin-po
<b>Legal Adviser</b>	Ms Connie FUNG
<b>Date</b>	2 July 2009