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Panel on Home Affairs

**Background brief prepared by the Legislative Council Secretariat
for the meeting on 11 June 2010**

Regulating of Internet Computer Services Centres

Purpose

This papers sets out measures taken by the Administration to regulate the operation of Internet Computer Services Centres ("ICSCs") (commonly known as Internet cafes) and summarises the views of Legislative Council ("LegCo") Members on the subject.

Background

2. ICSCs generally refer to premises providing computers and related equipment to customers for using Internet services, including playing of computer games downloaded from the Internet. The increased use of the Internet and growing popularity of Internet surfing/games have led to a growth of ICSCs in Hong Kong. There have been rising concerns from the community on the safety and mode of operation of ICSCs, particularly over young patrons having access to pornographic materials and Internet gambling opportunities, and the possibility that these centres may become additional venues for vice and triad activities. In response to these concerns, the Administration consulted the Panel on Home Affairs on the possible regulatory options for ICSCs in July 2002, followed by a public consultation later that year.

3. According to the findings of the public consultation, the vast majority of the public prefer the adoption of a more business-friendly notification system rather than a full-fledged licensing system for the regulation of ICSCs. Aspects such as law and order, fire and building safety and filtering of undesirable Internet content are seen as essential elements of the regulatory framework. However, there are diverse views as to whether, and if so how, youth patronage should be restricted.

Code of Practice for Internet Computer Services Centers Operators

4. Having regard to the public views, the Administration has advised the Panel that administrative regulation by way of a "Code of Practice for Internet Computer Services Centers Operators" ("the Code") containing essential regulatory elements for voluntary compliance by operators of ICSCs should address the main concerns of the public. The Administration consulted the Panel on the draft Code in July 2003, and issued the Code to all ICSCs in August 2003. The main provisions of the Code are summarized as follows -

- (a) operators should notify the Television and Entertainment Licensing Authority upon commencement of their operation and closing down of business;
- (b) children under 16 should generally be restricted from patronizing ICSCs after midnight;
- (c) operators should install up-to-date device to filter pornographic, violent or gambling contents on the Internet;
- (d) building and fire safety requirements should generally be on par with other licensed premises taking into account the usage and mode of operation of ICSCs; and
- (e) other desirable practices regarding noise control, smoking, ventilation, provision of sanitary fitments, etc. are also recommended to be put in place.

Discussions by LegCo Members

Panel on Home Affairs

5. At the Panel meetings on 17 July 2002, 25 September 2002 and 14 July 2003, the Panel discussed various issues relating to the regulation of ICSCs, including the possible regulatory options for ICSCs and the adequacy of the Code in serving such a purpose. Key views and concerns as expressed by members are set out in the ensuing paragraphs.

Effectiveness of the Code

6. A member expressed reservation on the effectiveness of the Code in regulating ICSCs as it was not legally binding. The Administration advised that the result of the consultation exercise in 2002 had shown the preference of the vast majority of the public for a more business friendly notification system rather than a full-fledged licensing system. Moreover, many had suggested that ICSCs should not be over-regulated as this would hinder the development of the trade. The

Administration therefore considered that a Code containing the essential regulatory elements for voluntary compliance by operators of ICSCs would address the main concerns of the public. The Administration stressed that although the Code did not have any legal effect, it would allow time for the existing operators to comply with the requirements and set standards for new operators to follow. The Code would be issued for a six-month trial period after which random inspections by relevant Government departments would be carried out to see how ICSCs had complied with the Code. A review would be conducted to evaluate the effectiveness of the Code, and there was flexibility in making the Code mandatory by way of legislation if necessary.

Social impact of ICSCs

7. Some members considered that the Code had failed to address the youth and family problems generated by the indulgence of youth in the use of the Internet. They also expressed concern that some frequent patrons of ICSCs might become night drifters and loiter in the street after ICSCs were closed at night. These members suggested that an inter-departmental working group comprising the Home Affairs Bureau ("HAB"), the Education and Manpower Bureau and the Social Welfare Department ("SWD") should be set up to study the issue, including promoting correct concepts and values on the use of information on the Internet. They also urged the Administration to conduct a comprehensive review of the social role and functions of ICSCs.

8. The Administration advised that according to the Code, operators of ICSCs should permit authorized persons, including Government officials and registered social workers, to enter and inspect the premises to ensure that ICSCs were operating in an orderly manner in accordance with the prevailing laws and the Code. The provision would facilitate social workers to approach young patrons in ICSCs to provide guidance and assistance to them. Although SWD was not involved in any working group to tackle youth problems in ICSCs, HAB had been working closely with the department in this respect. The Administration also undertook to conduct research on the impact of ICSCs on youth and consider providing financial support to academic institutions for the relevant studies.

Youth patronage at ICSCs

9. Some members considered it desirable to restrict youth patronage at ICSCs, for instance, children under the age of 16 should not be allowed to enter these establishments after 10:00 pm. A member, however, was worried that the restriction might drive more young people to loiter in more dangerous areas at night. Other members suggested the setting of different operating hours of ICSCs for children of different age groups.

10. The Administration explained that midnight was not considered as very late at night in Hong Kong and some young people might not want to return home before 10:00 pm. Regarding the suggestion for different patronage hours for children, the Administration advised that there might be difficulties in enforcement since it was not easy to determine the actual age of young patrons without checking their identity cards. The Administration, however, assured members that the provision on the patronage hours for children in the Code could be reviewed if children were found staying in ICSCs until midnight frequently.

11. Some members asked how the Administration would prevent children from accessing violent and pornographic web-sites at ICSCs. The Administration responded that they would liaise with the trade on the necessary measures to screen off these sites by ICSC operators.

Prevention of vice and triad activities

12. A member enquired about measures to be taken by the Government to prevent criminal activities such as vice and triad activities in ICSCs. Some members suggested that the provisions in the Code on lighting, layout and facilities of ICSCs might be revised to prevent illegal activities in these establishments.

13. The Administration replied that provisions had been included in the Code that no partitions higher than 1.5 meters should be erected in areas accessible to the public for the use of computing devices, and the premises of ICSCs should be adequately lit so that there would not be less than 50 lux measured at one meter above floor level and at any point at least one meter from walls. Moreover, the trade had requested that ICSCs should not be too brightly lit lest it would cause difficulties in reading the display device of the computers. The Administration also assured members that enforcement actions would be taken against criminal activities in ICSCs from time to time.

Building and fire safety

14. A member considered that the number of computer stations should be proportional to the useable floor area of the ICSC premises in order to ensure fire and public safety. The Administration responded that existing ICSCs with a useable floor area of around 200 to 250 square feet could accommodate some 50 to 100 computer stations. If necessary, the Administration would consider specifying a standard space requirement for each station.

Concerns raised at Council meetings

15. The operation of ICSCs remains to be a subject of concern to LegCo Members even after the implementation of the Code in 2003. The main issues raised by Members on the subject in recent years included the adequacy of the Code in regulating ICSCs, enforcement of the Code and the problem of drug abuse in ICSCs.

16. At the Council meeting on 28 October 2009, a Member raised a question on how the Administration would ensure the voluntary compliance of the Code by the ICSC trade. The Members enquired among others about: (a) the respective number of inspections of such premises conducted by the law enforcement officers in the past three years in respect of the three areas of fire safety, building safety and law and order; (b) the total number of complaints about ICSCs; and (c) whether the Administration would review the existing regime and reconsider the introduction of legislation to regulate the operation of ICSCs with reference to the relevant legislation of neighbouring places.

17. Noting that both the "2008-2009 Survey of Drug Use among Students" conducted by the Security Bureau and the "Central Registry of Drug Abuse Fifty-eighth Report" had uncovered that ICSCs were the hotbeds of substance abuse and even drug taking of young people aged under 21, a Member raised a question at the Council meeting on 21 April 2010 on drug abuse in ICSCs. In particular, the Member enquired about: (a) inspections made by law enforcement agencies to combat drug trafficking and drug taking in ICSCs; and (b) whether the Administration would consider regulating ICSCs through a licensing system to address the aforesaid problem.

18. The Administration's response to these questions (including its stance on the proposed regulation of ICSCs) is in **Appendix I**. According to the Administration, the Government has no plan at the present stage to regulate the operation of ICSCs by introducing legislation or other means, and different departments would continue to regulate the operation of ICSCs under the relevant legislation.

Latest development

19. The Administration will brief the Panel on its latest initiatives in the regulation of ICSCs at its meeting on 11 June 2010.

Relevant papers

20. A list of relevant papers with their hyperlinks at the LegCo website is in **Appendix II**.

Council Business Division 2
Legislative Council Secretariat
9 June 2010

Press Releases

LCQ12: Regulation of internet computer services centres

Following is a question by the Hon Starry Lee and a written reply by the Secretary for Home Affairs, Mr Tsang Tak-sing, in the Legislative Council today (October 28):

Question:

Internet computer services centres (commonly known as Internet cafes) have become one of the major places of leisure for young people and students. The Home Affairs Bureau has drawn up the Code of Practice for Internet Computer Services Centres Operators (the Code) for voluntary compliance by the trade. The Code provides guidelines on fire and building safety, noise control, maintenance of public order, crime prevention, Internet content, smoking, ventilation and hygiene facilities, including the guideline that persons under 16 should not remain in Internet cafes after midnight on weekdays and after 2am on Saturdays and public holidays. In this connection, will the Government inform this Council:

- (a) of the current number of Internet cafes in Hong Kong (broken down by District Council districts);
- (b) of the respective numbers of inspections of such premises conducted by law enforcement officers in each of the past three years in respect of the three areas of fire safety, building safety and law and order; whether non-compliance with the Code will be recorded during the inspections; if so, of the details of the non-compliance; and, among these cases, the number of those involving breaches of the time restrictions regarding the reception of persons under 16;
- (c) of the total number of complaints about Internet cafes received by the authorities in the past three years; the nature of such complaints; and, among them, the respective numbers of cases of the persons in charge or customers of the Internet cafes being prosecuted and convicted; and
- (d) whether the authorities will review the existing regime concerned and strengthen the regulation of Internet cafes (which includes reconsidering the introduction of legislation to regulate the operation of Internet cafes with reference to the relevant legislation of neighbouring places); if they will, of the details; if not, the reasons for that?

Reply:

President,

(a) The number of Internet computer services centres (ICSCs) in Hong Kong is broken down by Police Regions. The number of ICSCs by Region as at June 2009 are as follows:

	Number of ICSCs
Hong Kong Island	42
Kowloon East	36
Kowloon West	61
New Territories South	43
New Territories North	48
Islands	1
Total	231

(b) The Police conducts inspections of ICSCs from time to time to maintain public order and safety in these premises. The Fire Services Department (FSD) and the Buildings Department (BD) carried out 31 and 13 inspections of ICSCs respectively in the past three years (2007, 2008 and 2009 (up to June)).

As they conduct inspections at ICSCs, relevant departments carry out their duties in accordance with existing legislation and would take follow-up actions as and when necessary. These departments do not keep statistics on non-compliance with the Code of Practice for Internet Computer Services Centres Operators or breaches of time restrictions regarding the reception of persons under 16.

(c) In the past three years (up to June 2009), relevant government departments (including Television and Entertainment Liscensing Authority, Police, Environmental Protection Department, Customs and Excise Department, FSD and BD) received a total of 27 complaints involving ICSCs. They were mainly related to problems on noise, fire safety and suspected indecent website/computer games, etc.

The Police does not keep statistics on the prosecutions or convictions of the persons-in-charge or customers of ICSCs.

(d) ICSCs are generally referred to as premises providing computers and related equipment to customers for using Internet services. The mode of operation and the types of services provided by ICSCs are quite diverse, including personal communication centre, restaurant/café, browsing of information on the Internet, listening to the music and playing network games. Regarding the regulation of ICSCs, HAB has issued the "Code of Practice for Internet Computer Services Centres Operators" for voluntary compliance by ICSC operators.

Given that the mode of operation and types of services provided by ICSCs are quite diverse, and that different departments would regulate the different aspects of operation of ICSCs under different legislation, the Government currently has no plan to revise the regulation of ICSCs by introducing legislation or other means.

Ends/Wednesday, October 28, 2009

Issued at HKT 17:06

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Press Releases

LCQ18: Drug abuse in Internet cafe

Following is a written reply by the Acting Secretary for Security, Mr Lai Tung-kwok, to a question by the Hon Paul Chan Mo-po in the Legislative Council today (April 21):

Question:

Both the "2008/09 Survey of Drug Use among Students" conducted by the Narcotics Division of the Security Bureau and the "Central Registry of Drug Abuse Fifty-eighth Report" have uncovered that Internet computer services centres (commonly known as "Internet cafes") are the hotbeds of substance abuse and even drug taking of young people aged under 21, and there is a trend for the problem to aggravate. In this connection, will the Government inform this Council:

(a) whether law enforcement agencies had conducted inspections of Internet cafes in the past three years to combat drug trafficking and drug taking; if not, of the reasons for that; if so, of an annual breakdown of the number of inspections conducted, the number of persons arrested who were alleged to have trafficked drugs and taken drugs, their age, the types of pharmaceutical substances or drugs involved, and among the persons arrested, the respective numbers of those who were prosecuted and convicted, as well as the details of penalties imposed on them;

(b) whether the authorities had, in the past three years, studied how Internet cafes should be regulated, so as to combat substance abuse and drug taking; if so, of the details; if not, the reasons for that; and

(c) whether the authorities will consider regulating Internet cafes through a licensing system to target at the aforesaid problem?

Reply:

President,

(a) The Government has been keeping a close watch on the social and law and order problems that may be caused by young people hanging around the parks, streets and places of entertainment, including Internet computer services centres (commonly known as "Internet cafes"). Inspecting Internet cafes has been an integral part of Police's regular law enforcement effort in a bid to prevent young people from taking drugs or engaging in other illegal activities in public places. The Police do

not maintain figures on inspection of Internet cafes. According to Police records, the number of persons arrested for suspected drug trafficking and drug abuse in Internet cafes in the past three years are as follows:

	2007	2008	2009
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Trafficking in dangerous drugs	1	2	2
Possession of dangerous drugs	2	6	3

Of the 16 persons arrested, seven of them were under the age of 21. The types of drugs involved included cocaine, ketamine and ice. Fourteen of them were prosecuted and convicted and the sentences awarded included fines, Probation Orders, admission to detention centres, drug addiction treatment centres and imprisonments.

(b) The Government has been closely monitoring the situation of drug problems, including the situation in different type of premises. As shown by the Police figures above, there is no perceptible rising trend in drug offences related to Internet cafe. According to data of the Central Registry of Drug Abuse, 4.8% of young drug abusers aged under 21 took drugs in nightclub or Internet cafe in 2007. The proportion has increased to 6.3% in 2009. Besides, the "2008/09 Survey of Drug Use among Students" (the Survey) published in February this year showed that, on the whole, Internet cafe was not the major venue for drug-taking students. Overall speaking, drug problem in Internet cafe is not particularly serious. However, the Government notices that the Survey revealed that 20.8% of drug-taking upper primary students had indicated that they had taken drugs in Internet cafe. We are paying serious attention to the situation.

The Police will continue to combat drug offences involving Internet cafe through regular inspection. Social workers of Counselling Centres for Psychotropic Substance Abusers and outreaching social workers will also take the initiative to visit Internet cafes to contact youths prone to drug abuse and offer counselling on the spot, follow-up services and anti-drug education. On the other hand, the Government will promote researches on the problems of drug abuse by primary students, such as examination on the situation of drug abuse in Internet cafe by primary students, in order to assist in the formulation of relevant measures.

(c) The mode of operation and the types of services provided by Internet cafes are diverse. Internet cafes mainly provide

computers and related equipment to customers for using Internet services including business and personal communication, browsing of information on the Internet, listening to the music, playing network games and restaurant/cafe services. Operators of Internet cafes are required to comply with all legislation and requirements such as fire and building safety, noise control, public order and crime prevention, etc. The Home Affairs Bureau has also issued a "Code of Practice for Internet Computer Services Centres Operators" for voluntary compliance by the industry. The Government has no plan at the present stage to regulate Internet cafes through a licensing system. Different departments will continue to regulate operation of Internet cafes under the relevant legislation.

Ends/Wednesday, April 21, 2010

Issued at HKT 15:33

Appendix II

Panel on Home Affairs

Relevant documents on regulating of Internet Computer Services Centres

Committee	Date of Meeting	Minutes/Paper/ Council question	LC Paper No./ Website
Panel on Home Affairs	10.7.2002	Information Note on "Regulation of Cyber Cafés in The Mainland, Taiwan, Japan, Singapore and Hong Kong"	IN34/01-02 http://www.legco.gov.hk/yr01-02/english/sec/library/0102in34e.pdf
	17.7.2002	Administration's paper on way forward for internet computer services centres and amusement game centres	CB(2)2549/01-02(02) http://www.legco.gov.hk/yr01-02/english/panels/ha/papers/ha0712cb2-2549-2e.pdf
		Minutes of meeting	CB(2)2822/01-02 http://www.legco.gov.hk/yr01-02/english/panels/ha/minutes/ha020717.pdf
	25.9.2002	Extract from the minutes of special meeting of the Panel on Home Affairs held on 25 September 2002	CB(2)2798/02-03(07) http://www.legco.gov.hk/yr02-03/english/panels/ha/papers/ha0714cb2-2798-7e.pdf
	4.4.2003	Administration's follow-up actions to previous meetings	CB(2)1691/02-03(01) http://www.legco.gov.hk/yr01-02/english/panels/ha/papers/ha0925cb2-1691-1e.pdf
	14.7.2003	Administration's paper on regulation of internet computer services centres and amusement game centres	CB(2)2798/02-03(04) http://www.legco.gov.hk/yr02-03/english/panels/ha/papers/ha0714cb2-2798-4e.pdf
		Minutes of meeting	CB(2)3082/02-03 http://www.legco.gov.hk/yr02-03/english/panels/ha/minutes/ha030714.pdf

Committee	Date of Meeting	Minutes/Paper/ Council question	LC Paper No./ Website
Council Meeting	28.10.2009	Hon Starry LEE raised a written question on "Regulation of internet computer services centres"	http://www.info.gov.hk/gia/general/200910/28/P200910280206.htm
	21.4.2010	Hon Paul CHAN Mo-po raised a written question on "Drug abuse in internet cafés" and the Administration's reply	http://www.info.gov.hk/gia/general/201004/21/P201004210188_print.htm

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