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Panel on Home Affairs

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Secretariat
for the meeting on 8 April 2011**

Regulation of Internet Computer Services Centres

Purpose

This paper summarizes the deliberations of the Panel on Home Affairs (the "Panel") on matters relating to the regulation of Internet Computer Services Centres ("ICSCs") (commonly known as Internet cafes).

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 about the access of young patrons to pornographic materials and Internet gambling opportunities and the possibility of these centres becoming venues for vice and triad activities.

3. In July 2002, the Administration consulted the Panel on the possible regulatory options for ICSCs, followed by a public consultation later that year. The outcomes of the public consultation showed that the majority of the public preferred 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 contents were seen as essential elements of the regulatory framework. However, there were diverse views as to whether, and if so how, youth patronage should be restricted.

Code of Practice for ICSC Operators

4. Having regard to the public views, the Administration 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 ICSC operators should address the main public concerns. 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.

Deliberations of the Panel

5. Between 2002 and 2010, the Panel discussed various issues relating to the regulation of ICSCs. Members' views and concerns are highlighted in the ensuing paragraphs.

Effectiveness of the Code

6. There was a concern about the effectiveness of the Code in regulating ICSCs, as it was not legally binding. The Administration advised that the outcomes of the 2002 public consultation 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 respondents had suggested that ICSCs should not be over-regulated, as this would hinder the development of the trade. The Administration stressed that although the Code did not have any legal effect, it would allow time for the existing ICSC operators to comply with the requirements and set standards for new operators to follow. In addition, their operation was subject to statutory control under various ordinances, such as the Fire Services Ordinance (Cap. 95), Buildings Ordinance (Cap. 123), Noise Control Ordinance (Cap. 400) and Control of Obscene & Indecent Articles Ordinance (Cap. 390). The Administration advised that 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.

Establishment of a licensing regime

7. Some members shared the view that the Administration should introduce a licensing regime to regulate the operation of ICSCs. An exemption clause might be added for non-governmental organizations providing internet-related services. There was a view that ICSCs had become the hotbed of vice and triad activities and the breeding ground of many youth problems. A mandatory licensing system would be most effective in combating these problems. Some members suggested that as the nature and mode of operation of ICSCs and Amusement Game Centres ("AGCs") were similar, the Administration should establish a licensing regime for ICSCs by making reference to the licensing conditions for AGCs, such as prohibiting the establishment of AGCs within a radius of 100 meters from any educational institution. The Administration advised that it was prepared to listen to the views of the public and ICSC operators before contemplating the way forward.

8. At the Panel meeting on 11 June 2010, a motion was passed urging the Government "to study the regulation of internet cafes by way of a licensing regime and draw up a timetable for conducting the study".

Social impact of ICSCs

9. 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 loiters in the street after ICSCs were closed at night. An inter-departmental working group comprising the Home Affairs Bureau ("HAB"), the Education Bureau and the Social Welfare Department ("SWD") should be set up to study the matter, including promoting correct concepts and values on the use of information on the Internet. The Administration should also conduct a comprehensive review of the social role and functions of ICSCs.

10. The Administration advised that according to the Code, ICSC operators 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, it had been working closely with HAB 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

11. 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 ICSCs after 10:00 pm. However, there was a worry that the restriction might drive more young people to loiter in more dangerous areas at night. Other members suggested setting different operating hours of ICSCs for children of different age groups. There was also a suggestion that ICSCs should be closed for four hours on a daily basis to allow parents and social workers to identify and counsel the youth concerned.

12. 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 of different patronage hours for children, there might be difficulties in enforcement since it was not easy to determine the actual age of young patrons without checking their identity cards. Nevertheless, the provision on the patronage hours for children in the Code could be reviewed if children were found staying in ICSCs until midnight

frequently. ICSC operators were reminded through the Code that children under 16 should not remain in ICSCs from midnight to 8 am from Monday to Friday, and from 2 am to 8 am on Saturday and public holidays.

13. 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.

Inspection of ICSCs

14. Some members considered that the inspections conducted by the law enforcement agencies were far from adequate and effective in combating the many pressing issues associated with ICSCs. They urged the Administration to step up the inspections of ICSCs around mid-night. Members also sought information on what premises were "commonly perceived as ICSCs" for the purpose of the Police patrol and inspection, and how the departments concerned enforced the relevant ordinances or carried out inspections on ICSCs in the absence of a clear definition of ICSCs.

15. The Administration advised that a total of 2 710 inspections were conducted in 2009 by the Fire Services Department, Buildings Department, Environmental Protection Department, Customs and Excise Department and Television and Entertainment Licensing Authority to ensure compliance of ICSCs with the relevant ordinances. The Police also conducted inspections to ICSCs during its regular law enforcement effort to combat criminal activities. According to the Police, there were about 219 ICSCs in Hong Kong as at December 2009. As the mode of operation and types of services provided by the ICSC establishments were very diverse, there was no definition yet of what constituted an ICSC. For the purpose of departmental inspections, ICSCs were generally referred to establishments which provided computer and related facilities for customers' access to the internet, excluding those providing internet facilities as a form of social/community service.

Prevention of vice and triad activities

16. Members urged the Administration to contain criminal activities, such as drug trafficking and drug abuse, in ICSCs, given their negative impact on young people. The Administration advised that the prevailing laws and regulations had already empowered the relevant authorities to

carry out inspections of ICSCs. In 2009, there were 152 reported cases of crime in ICSCs, and more than half were theft-related. Although crime problems were not particularly serious in ICSCs, the Police would continue to monitor closely the situation.

17. Some members suggested that the provisions in the Code on lighting, layout and facilities of ICSCs might be revised to prevent illegal activities in ICSCs. According to the Administration, the Code had prescribed 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.

Building and fire safety

18. There was a view 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.

19. Some members considered that the Administration should enhance the inspection of ICSCs to ensure their compliance with the fire safety standards. The Administration advised that under the Electricity (Wiring) Regulations, owners of electrical installations should have their installations inspected, tested and certified periodically.

Relevant papers

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

Appendix

Relevant papers on regulating of Internet Computer Services Centres

Committee	Date of Meeting	Paper
Panel on Home Affairs	10.7.2002	<u>IN34/01-02</u>
Panel on Home Affairs	17.7.2002 (Item IV)	<u>Agenda</u> <u>Minutes</u>
Panel on Home Affairs	25.9.2002	<u>Extract Minutes</u>
Panel on Home Affairs	4.4.2003	<u>CB(2)1691/02-03(01)</u>
Panel on Home Affairs	14.7.2003 (Item V)	<u>Agenda</u> <u>Minutes</u>
Council Meeting	28.10.2009	<u>Question</u>
Council Meeting	21.4.2010	<u>Question</u>
Panel on Home Affairs	11.6.2010 (Item VI)	<u>Agenda</u> <u>Minutes</u>

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