

商務及經濟發展局
通訊及科技科

香港中環花園道
美利大廈一至二樓



COMMUNICATIONS
AND TECHNOLOGY BRANCH
COMMERCE AND ECONOMIC
DEVELOPMENT BUREAU

1/F-2/F Murray Building, Garden Road
Central, Hong Kong

Tel: 2189 2228

Fax: 2519 9780

本函檔號 Our Ref.:

來函檔號 Your Ref.:

25 May 2011

Mr Jeremy Godfrey
[Sent by e-mail]

Dear Jeremy,

I refer to your emails @ 03:21 and 04:52 on 9 May and @ 09:50 on 11 May, requesting permission -

- (a) to submit your “proposed corrections and clarifications” to the Panel on Information Technology and Broadcasting of the Legislative Council (ITB Panel), and
- (b) to speak candidly about all aspects of the Internet Learning Support Programme (ILSP) selection process, in case the proposed corrections and clarifications result in further questions.

As you have also referred the matter to the ITB Panel, I feel obliged to put on record the Government’s stance to clarify why your earlier requests for permission to disclose confidential information was not acceded to.

Proposed corrections and clarifications

2. To put matters in perspective, it was not until your submissions of 8 May and 10 May to the ITB Panel that references to “*public interest questions*” were made as the basis for your seeking permission from the Government to disclose confidential information relating to the ILSP project.

3. When you presented the first request to the Permanent Secretary for Commerce and Economic Development (Communications and Technology) (PSCT) on 24 March, you said that you had reviewed the recording of the English translation of the ITB Panel meeting on 14 March and –

*“consider that some of the administration’s remarks might give a misleading impression of **my role**.” [emphasis added]*

You added that –

*“My objective in writing is to ensure that my own professional reputation is not damaged, either as a result of the public getting a misleading impression of **my role** or as a result of **my being criticised** at some future point for remaining silent when I considered that the Panel was at risk of gaining a misleading impression of events. It is not my objective to cause political difficulties for the Government.” [emphases added]*

In your further exchange with PSCT on 29 March, you said that –

*“I consider that the **misleading** impression of my role is created as much by **omissions** as by what was said at the panel. For instance, **my role in objecting to the dual implementer approach has not been disclosed**. If this is not made explicit, there is a risk that panel members and others might assume that this recommendation resulted from the evaluation process that I led.” [emphases added]*

It is the **personal** nature of your stated request that the Government considers hard to accept as the basis to merit the waiving of confidentiality rules on the ILSP deliberations.

4. Since late March, PSCT has twice proposed solutions to allay your concerns about your role in the ILSP selection process – first, by seeking to propose amendments to the draft minutes of the ITB Panel meeting on 14 March to reflect more explicitly the facts that your advice on the collaborative

approach was meant to identify a single implementer, and that the dual implementer approach was proposed by the Government [implying not GCIO]; and secondly, by stating in a Note to be issued to the Finance Committee (FC) the fact that the dual implementer approach was the Government's decision and was proposed to the two implementers by the Bureau [implying not GCIO]. You do not consider these offers adequate. The concerns you articulated remain personal.

5. PSCT has explained to you that respect for confidentiality rules is fundamental to the integrity and professionalism of the civil service. Once a government decision has been made, the government team is expected to speak with one voice and it would not be appropriate to disclose personal views or the contents of internal debates in public. The Government believes that the proposed amendments to the ITB Panel minutes and details in the Note to be issued to FC should be adequate to meet your concerns about your personal role **without** breaching the confidentiality rules and government discipline.

6. PSCT has also assured you that the Government would **not** attribute the decision on the dual implementer approach to you, and that PSCT would be held accountable. This remains PSCT's official commitment.

7. On 15 April [@ 12:05], you advised that you were not willing to negotiate the wording of the ITB Panel minutes or the FC paper. You attached a revised version of the Note of clarifications and corrections, and a draft Memo to the ITB Panel in case the Government was not willing to disclose the former. "*Public interest*" was **not** mentioned in these two drafts; nor in preceding exchanges to justify the waiver of the confidentiality rules.

8. On 8 May, you wrote to the ITB Panel, stating that your "*proposed corrections and clarifications raise serious public interest questions*". The following morning, you wrote to PSCT, stating that the Government has been "*misleading, and arguably dishonest*" and that –

"If the Government does not correct this, or if it makes any further misleading statements, I shall consider that the public interest in ensuring that LegCo is not misled outweighs any duty to maintain

confidentiality about the details of the conduct of Government business.”

You also wrote on 10 May to the ITB Panel Chairman that “*the public interest issues are of far greater importance than the impact on my reputation.*”

9. From the Government’s perspective, there are good reasons to protect confidential exchanges relating to a competitive bidding process. The integrity of a competitive bidding process would be compromised if, by way of illustration, individual officers involved could be permitted to speak freely on the contents of the bidding proposals submitted by third parties to the Government. Other than causing embarrassment, leakages or unauthorized disclosure of classified information would inhibit frank and fair exchanges within the Government that might be necessary during the quality evaluation process in government procurement. Civil servants are also expected to follow the hierarchy and respect decisions made by seniors provided properly authorized and in accordance with the due process.

10. In the case of the ILSP selection process, the Government provided updates to the ITB Panel and FC in January, March and April 2011. The Government stands ready to be as transparent as reasonably required while seeking to preserve respect for confidentiality, collective decisions and government discipline.

11. Rather than purporting to clarify your personal role and reputation in the ILSP selection process, you have now suggested that “*public interests*” are at stake and may merit the use of the Legislative Council (Powers and Privileges) Ordinance. Given your statements, the Government’s reputation is seriously at stake. There is a need for the Government’s perspective to be properly presented and understood in context. In the circumstances, PSCT – acting on Government’s behalf, would not object to your disclosing the Note of clarifications and corrections attached to your email @ 12:50 on 15 April.

Request to speak freely

12. The Government would be prepared to facilitate the deliberations of

the ITB Panel. As a practical way forward, the Government would not object to your disclosing confidential information relating to the ILSP selection process to the Panel provided that the disclosed information or claim is factually correct and based on evidence and to the extent that the disclosure is relevant and necessary for the sake of public interest. The Government hopes that all unnecessary concerns about the ILSP selection process can be put to rest once and for all in a fair and expeditious manner.

13. As a former Head of Department, you would of course be alive to the need to protect the identity, reputation and interests of individuals and organizations that have put in a bid to the Government or that would be affected by your proposed disclosure or public statements.

14. As the matter is now in the public domain and you have written to the ITB Panel Chairman, we are sending a copy of this response to the Chairman for information.

Yours sincerely,



(Miss Elizabeth Tse)
for Secretary for Commerce and Economic Development

cc Chairman, ITB Panel