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**Panel on Home Affairs
Background brief prepared by the Legislative Council Secretariat
for the meeting on 17 February 2014**

**Issues relating to the licensing control of
Internet Computer Services Centres**

Purpose

1. This paper provides background information and summarizes the deliberations of the Panel on Home Affairs (the "Panel") on issues relating to licensing control of Internet Computer Services Centres ("ICSCs") (commonly known as Internet cafés).

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. In the light of growing public concern about the safety and mode of operation of ICSCs, particularly 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, the Administration consulted the Panel in July 2002 on the possible regulatory options for ICSCs, followed by a public consultation later that year.

3. 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. While 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, there were diverse views as to whether, and if so, how youth patronage should be

restricted. Having regard to public views, the Administration advised the Panel in April 2003 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 be able to 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.

4. At its meeting on 11 June 2010 when the subject of the regulation of ICSCs was discussed, the Panel passed a motion urging the Government to study the regulation of ICSCs by way of a licensing regime and draw up a timetable for conducting the study. Subsequently, the Administration briefed the Panel on its proposal to introduce a statutory licensing scheme for ICSCs and the key parameters of the proposed regulatory regime at the Panel meeting on 8 April 2011. The Panel was advised that there was a strong public demand that the Government should cease to rely on the administrative Code and instead bring ICSCs under a proper licensing framework. The Administration undertook to consult the trade and other relevant stakeholders, including the District Councils, parent-teacher associations and youth organizations, on its proposal and revert to the Panel afterwards.

Deliberations of the Panel

5. Issues relating to the licensing control of ICSCs were discussed at the meetings of the Panel on 11 June 2010 and 8 April 2011. Members' views and concerns are highlighted in the ensuing paragraphs.

Need for a statutory licensing regime

6. At the Panel meeting on 11 June 2010, some members expressed concern about the effectiveness of the Code in regulating ICSCs, as it was not legally binding. There was a view that ICSCs had become the hotbed of vice and triad activities and the breeding ground of many youth problems, and a mandatory licensing system would be most effective for 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.

7. The Administration explained to the Panel 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). Nevertheless, the Administration was prepared to listen to the views of the public and ICSC operators on the introduction of a licensing regime for ICSCs before contemplating the way forward.

8. At the Panel meeting on 8 April 2011, while members in general supported the proposed statutory regulation of ICSCs, some members raised concern about the effectiveness of regulating ICSCs by legislation and sought information on how overseas jurisdiction dealt with ICSCs. Some other members expressed hope that the Administration could strike a proper balance between the effective regulation and the survival of ICSCs, as many of them were small-and-medium sized enterprises. Members also considered it important for the Administration to listen to the views of not only ICSC operators and other stakeholders but also young people in drawing up the regulatory framework for ICSCs.

9. The Administration assured members that it would gauge the views of parents, the social welfare sector and the trade on the licensing of ICSCs, including whether to impose restrictions on the business hours and age of patrons of ICSCs and whether to follow the arrangement for AGCs by dividing ICSCs into two types for adults and children respectively. The Administration was aware that the regulatory arrangements for ICSCs in other jurisdictions varied. For instance, in Macau and on the Mainland, children under 12 and 18 were not allowed to enter ICSCs respectively. In Singapore, students under 16 were only allowed to enter ICSCs during a certain period of time after school. As the services provided by ICSCs had been a normal business, the Administration would carefully consider whether they had to be subject to stringent regulation.

10. In response to a member's view that the problems associated with ICSCs should be attributed to youth problems rather than the lack of regulation, the Administration advised the Panel that it had attached importance to youth development by supporting youth uniform groups and encouraging youngsters to take part in various sports and arts programmes.

Licensing conditions

11. When the Panel was consulted on the proposed licensing regime for ICSCs at its meeting on 8 April 2011, some members queried why the proposed licensing conditions for ICSCs were more lax than those for AGCs. For

instance, there were no restrictions on the establishment of an ICSC within a radius of 100 metres from an educational institution (i.e. the 100-metre rule) and the entry of persons in school uniform to ICSCs. Nor was there any requirement for consulting local residents before the establishment of an ICSC.

12. According to the Administration, AGCs and ICSCs were different in that the former provided game machines for amusement, whereas the latter provided computer sets by which patrons, including tourists, might not play games but access information on the Internet with low fees. As such, it should be more appropriate to regulate ICSCs by a licensing regime different from that for AGCs. The Administration would consult the trade on the applicability of the 100-metre rule, and consider the practical needs of students in school uniform to stay in ICSCs for study.

13. Some members considered it desirable to restrict youth patronage at ICSCs and urged the Administration to disallow children under the age of 16 to remain in ICSCs after midnight. Some other members, however, expressed worry that the proposed restriction of access to ICSCs by children under 16 from midnight to 8:00 am might drive more young people to loiter in more dangerous areas at night. In the Administration's view, children should not stay late in ICSCs. The restriction on children under 16 to remain in ICSCs after midnight had been set out in the Code and could be a licensing condition for ICSCs.

14. Some members were of the view that apart from setting out statutory and relevant requirements relating to fire safety, building safety and noise control, the proposed licensing regime should also require ICSCs to comply with office safety requirements relating to the use of computers, such as lighting condition and workstation design, so as to further protect the health of patrons. A suggestion was also made that the Administration should consider setting special licensing requirements for the safety of electrical installations in ICSCs. The Administration advised the Panel that fire safety, ventilation and lighting requirements for ICSCs had been put in place. The Fire Services Department ("FSD") would conduct regular inspections on ICSCs to ensure their compliance with such requirements.

15. There was a view that the Administration should consider putting in place a demerit points system under which the licence of an ICSC operator might be revoked if a certain number of demerit points were accumulated, as such a system should pose a deterrent effect on ICSC operators who had violated the licensing conditions repeatedly. The Administration concurred that if a licensing regime for ICSCs was to be introduced, a corresponding mechanism to revoke an ICSC licence should be put in place.

16. Concern had been raised about how the Administration would ensure effective monitoring of ICSCs before introducing a licensing regime. The Administration advised the Panel that the implementation of the Code by big ICSCs was satisfactory in that patrons needed to have their Identity Card numbers recorded before entering ICSCs and manpower was deployed to check whether patrons accessed pornographic and violent contents on the Internet in ICSCs. In addition to the Police, which conducted regular inspections on ICSCs, FSD and the Office for Film, Newspaper and Article Administration were responsible for inspecting the fire service installations and Internet contents in ICSCs respectively.

Latest development

17. The Administration will brief the Panel on the results of a study on the licensing needs for ICSCs and the Government's regulatory proposals under the Amusement Game Centres Ordinance (Cap. 435) at the meeting on 17 February 2014.

Relevant papers

18. A list of the relevant papers on the website of the Legislative Council is in the **Appendix**.

**Relevant papers on
Licensing control of Internet Computer Services Centres**

| Committee | Date of Meeting | Paper |
|-----------------------|------------------------|---|
| Panel on Home Affairs | 17.7.2002 (Item IV) | Agenda IN34/01-02 Minutes |
| Panel on Home Affairs | 25.9.2002 | Extract Minutes |
| Panel on Home Affairs | 4.4.2003 | CB(2)1691/02-03(01) |
| Panel on Home Affairs | 14.7.2003 (Item V) | Agenda Minutes |
| Panel on Home Affairs | 11.6.2010 (Item VI) | Agenda Minutes |
| Panel on Home Affairs | 8.4.2011 (Item III) | Agenda Minutes |