

立法會
Legislative Council

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by the Administration)

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Panel on Information Technology and Broadcasting

Minutes of meeting
on Monday, 11 April 2016, at 2:30 pm
in Conference Room 3 of the Legislative Council Complex

Members present : Dr Hon Elizabeth QUAT, JP (Chairman)
Ir Dr Hon LO Wai-kiwok, SBS, MH, JP (Deputy Chairman)
Hon CHAN Kam-lam, SBS, JP
Hon Emily LAU Wai-hing, JP
Hon TAM Yiu-chung, GBS, JP
Hon WONG Ting-kiwong, SBS, JP
Hon Cyd HO Sau-lan, JP
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Hon IP Kwok-him, GBS, JP
Hon Mrs Regina IP LAU Suk-ye, GBS, JP
Hon Paul TSE Wai-chun, JP
Hon LEUNG Kwok-hung
Hon WONG Yuk-man
Hon Claudia MO
Hon NG Leung-sing, SBS, JP
Hon YIU Si-wing, BBS
Hon MA Fung-kiwok, SBS, JP
Hon Charles Peter MOK, JP
Hon CHAN Chi-chuen
Hon SIN Chung-kai, SBS, JP
Dr Hon CHIANG Lai-wan, JP
Hon Alvin YEUNG Ngok-kiu

Members absent : Hon Steven HO Chun-yin, BBS
Hon Christopher CHUNG Shu-kun, BBS, MH, JP

Members attending : Hon Michael TIEN Puk-sun, BBS, JP
Hon Alice MAK Mei-kuen, BBS, JP

Public officers attending : Agenda item IV

Innovation and Technology Bureau

Mr Nicholas W YANG, JP
Secretary for Innovation and Technology

Mrs Millie NG
Deputy Secretary for Innovation and Technology

Ir Allen YEUNG
Government Chief Information Officer

Mr Victor LAM, JP
Deputy Government Chief Information Officer
(Consulting and Operations)

Ms Joyce MOK
Assistant Government Chief Information Officer
(IT Operations)

Mr Alex YEUNG
Chief Systems Manager
(IT Operations)

Agenda item V

Commerce and Economic Development Bureau

Mr Gregory SO, GBS, JP
Secretary for Commerce and Economic Development

Miss Susie HO, JP
Permanent Secretary for Commerce and Economic
Development
(Communications and Creative Industries)

Mr Joe WONG, JP
Deputy Secretary for Commerce and Economic
Development
(Communications and Creative Industries)

Mr Ivanhoe CHANG
Principal Assistant Secretary for Commerce and
Economic Development
(Communications and Creative Industries)B

Clerk in attendance : Mr Daniel SIN
Chief Council Secretary (4)3

Staff in attendance : Mr Joey LO
Senior Council Secretary (4)8

Miss Mandy LAM
Legislative Assistant (4)3

Action

I. Confirmation of minutes of meetings

(LC Paper No. CB(4)766/15-16 -- Minutes of policy briefing
held on 2 February 2016

LC Paper No. CB(4)806/15-16 -- Minutes of meeting held on
16 February 2016)

The minutes of the meetings held on 2 February 2016 and 16 February
2016 were confirmed.

II. Information papers issued since the last meeting

(LC Paper No. CB(4)758/15-16(01) -- Administration's response
dated 21 March 2016 to
the letter from Alice MAK
Mei-kuen as set out in LC
Paper No. CB(4)701/15-
16(03) on issues relating to
the provision of Internet
connection to remote areas

- LC Paper No. CB(4)762/15-16(01) -- Report on the public consultation exercise on the renewal of the analogue sound broadcasting licences
- LC Paper No. CB(4)795/15-16(01) -- Administration's response dated 29 March 2016 to the letter from Hon Claudia MO as set out in LC Paper No. CB(4)701/15-16(02) on issues relating to the alleged encroachment of into local FM radio spectrum by Mainland radio stations)

2. Members noted that the above papers had been issued for the Panel's information.

Alleged encroachment into local FM radio spectrum by Mainland radio stations

3. The Chairman said that the Administration's response to the query from Ms Claudia MO regarding alleged encroachment of Mainland radio signals into local FM radio spectrum had been circulated to members for reference. Ms Claudia MO said the problem of radio signals from Guangdong interfering with Hong Kong's radio frequencies did exist and occurred quite frequently, but nothing had been done by the Hong Kong and Guangdong authorities to rectify the situation. Ms MO said that the Administration should explain why no effective action had been taken. She also requested the Administration to disclose the new Frequency Co-ordination Agreement signed by Hong Kong SAR and Guangdong Province in 2000 covering the use of the radio frequency in the frequency band from 30 MHz to 40 GHz by communications and broadcasting services, in order to clarify the duties and responsibilities of the two sides in broadcasting radio signals. She added that the Administration could only reveal the relevant parts of the agreement and redact those details that were considered sensitive information.

4. The Chairman said that she would relay Ms MO's comments to the Administration for consideration.

(Post-meeting note: Further written response from the Administration to Ms Claudia MO's comments were circulated to members vide LC Paper No. CB(4)989/15-16(01) on 16 May 2016.)

Renewal of the analogue sound broadcasting licences of Hong Kong Commercial Broadcasting Company Limited

5. The Chairman said that Mr CHAN Chi-chuen requested at the Panel meeting on 14 March 2016 that the Administration be invited to discuss with members on the renewal of the analogue sound broadcasting licences of Hong Kong Commercial Broadcasting Company Limited ("CRHK"). The Chairman said that the Chief Executive in Council had approved the applications for renewal of the analogue sound broadcasting licences of CRHK and Metro Broadcast Corporation Limited for a period of 12 years from 26 August 2016 to 25 August 2028. The letter from the Administration, press release and the Legislative Council Brief had been circulated to members vide LC Paper No. CB(4)762/15-16 on 22 March 2016. The Communications Authority's Report on the Public Consultation Exercise on the Renewal of the Analogue Sound Broadcasting Licences had also been circulated to members vide LC Paper No. CB(4)774/15-16 on 23 March 2016.

III. Date of next meeting and items for discussion

(LC Paper No. CB(4)816/15-16(01) -- List of outstanding items for discussion

LC Paper No. CB(4)816/15-16(02) -- List of follow-up actions)

Regular meeting on 9 May 2016

6. Members noted that the next regular Panel meeting would be held on Monday, 9 May 2016 at 2:30 pm to discuss the following items:

- (a) Role of Cyberport in promoting ICT ecosystem in Hong Kong; and
- (b) Development of digital economy.

Alleged self-censorship by Radio Television Hong Kong

7. Ms Claudia MO said that the Radio Television Hong Kong ("RTHK") had invited Mr Kenneth IP (also known as Shu Kei) a film director to the weekend programme "Letter to Hong Kong" and to present his views on the future development of Hong Kong. Ms MO said that the proposed episode was later aborted apparently because of Mr IP's insistence on expressing his views regarding a recent controversial film. Ms MO queried whether RTHK's

decision to abort the episode was politically motivated and suggested that the Director of Broadcasting should be invited to discuss the matter at the next meeting of the Panel.

8. The Chairman said that there were still a number of issues pending discussion as shown in the "List of outstanding items for discussion" and it might be difficult to find suitable timeslot for the matter raised by Ms Claudia MO. The Chairman suggested that Ms MO could first submit a letter setting out the issues and information that required the Administration's response, so that they might be referred to the Administration for follow-up. Alternatively, the Chairman asked Ms MO to pursue the matter through other channels such as by raising a question in the Council.

IV. Wi-Fi Connected City

(LC Paper No. CB(4)816/15-16(03) -- Administration's paper on Wi-Fi connected city

LC Paper No. CB(4)816/15-16(04) -- Paper on development of Wi-Fi connected city prepared by the Legislative Council Secretariat (Background brief))

9. The Chairman reminded members on the requirements of Rule 83A and Rule 84 of the Rules of Procedure of the Legislative Council on disclosure of direct or indirect pecuniary interests relating to the funding proposals under discussion.

Presentation by the Administration

10. At the invitation of the Chairman, Secretary for Innovation and Technology ("S for IT") briefed members on the programme to build Hong Kong as a Wi-Fi connected city by extending free public Wi-Fi services provided at government and other public venues ("the Wi-Fi Connected City Programme"), and the proposal for a total non-recurrent expenditure of \$500 million for implementing the programme. Details of the briefings were set out in the paper provided by the Administration (LC Paper No. CB(4)816/15-16(03)).

Discussion

Funding proposal

11. Dr CHIANG Lai-wan enquired why the Administration proposed to provide non-recurrent subsidies of \$23 million to non-governmental organizations ("NGOs") to provide public Wi-Fi services in study rooms, youth service centres and other government/public-related venues for five years only.

12. Government Chief Information Officer ("GCIO") advised that the estimated total non-recurrent expenditure of \$500 million would be required for implementing the proposal to extend free public Wi-Fi services provided at government and other public venues for five years. This would include, for the first time, youth service centres and study rooms run by the Government and NGOs. Setting the project period of five years would allow the Administration to gather sufficient experience, including that of adopting the public-private collaboration model, so that the Administration would be able to consolidate and formulate the details of the next implementation stage. S for IT added that the funding period of five years was a suitable duration as the Administration was duty-bound to manage the risks, especially technical ones, in the process.

13. In response to Mr Alvin YEUNG's enquiry about the details of the funding proposal, Deputy Government Chief Information Officer (Consulting and Operations) ("DGCIO") said that the capital expenditure relating to the implementation of the pilot project and the full-scale roll-out of the public-private collaboration model (items (a) and (b) in paragraph 22 of the Administration's paper LC Paper No. CB(4)816/15-16(03)) would be one-off funding, whilst the Administration might need to seek additional funding a few years later for the other items (items (c), (d), (e) and (g)) relating to provision of Wi-Fi services.

Implementation plan

14. Mr Charles Peter MOK expressed support for the Wi-Fi Connected City Programme as Hong Kong had lagged behind other major cities in implementing free public Wi-Fi services. He said that apart from increasing the number of hotspots, the Administration should ensure that the public Wi-Fi services were able to meet the demands of users in terms of the venues covered, duration of use, connection speed as well as stability of services. Judging from the experience of other economies such as Singapore and Taiwan, Mr MOK considered that the public-private collaboration model in the provision of public Wi-Fi services should be better than the single contractor-based operation mode of the existing Government Wi-Fi ("GovWi-Fi") services. The problem with the

single contractor-based operation mode often meant that outdated technologies and equipment were not upgraded in time because the relevant contract(s) had yet to come to expiry. He enquired about the details of the free public Wi-Fi services, such as the daily duration of use for connection and whether the unused free usage time could be carried forward from one venue to another. Mr MA Fung-kwok raised a similar question.

15. S for IT said that the public-private collaboration model was expected to resolve the problems of connection speed and coverage associated with the existing single contractor-based operation mode of free public Wi-Fi services. The duration of use of free Wi-Fi service would vary from a minimum of 30 minutes to unlimited use per day for different venues. The transfer of unused free usage time from one venue to another would need to be further considered.

16. Noting that the Administration aimed to provide free Wi-Fi service to the public in more than 100 venues in Hong Kong in the pilot programme, Dr CHIANG Lai-wan queried how the Administration would select the venues. She also asked if the Administration should consider providing service at tourist spots where there were higher circulation of visitors.

17. S for IT advised that the number 100 was the minimum number of venues which the Administration would conduct the pilot project of adopting the public-private collaboration model for the provision of free Wi-Fi service. He added that 100 venues would provide a sufficient sample size for evaluating the project. GCIO added that the 100 venues would be selected from various venues across the 18 districts in Hong Kong, having regard to the needs of both Hong Kong residents and visitors.

18. Mr TAM Yiu-chung welcomed the Administration's proposal to implement the Wi-Fi Connected City initiative which would make it easier for the public and visitors to access free public Wi-Fi services in Hong Kong. He asked which party would bear the maintenance cost of the free public Wi-Fi services infrastructure under the public-private collaboration arrangement, and how the programme would be co-ordinated amongst the various bureaux/department ("B/D"). Noting criticism about the speed of public Wi-Fi connection in public libraries, Mr TAM also enquired about the speed of Wi-Fi connection under the programme. Dr CHIANG Lai-wan raised a similar question.

19. S for IT said that the partnership or collaboration approach was not entirely new in the provision of free public Wi-Fi services. Amongst the existing 17 000 Wi-Fi hotspots of Wi-Fi.HK, 14 000 had already adopted a partnership or collaboration model with Wi-Fi service providers. As regards co-

ordination amongst B/Ds, GCIO advised that the Office of the Government Chief Information Officer ("OGCIO") would be taking a leading role in the programme. A Steering Committee and working groups with members from participating B/Ds, major NGOs and service providers would be set up to define the service scope and detailed requirements, to oversee the implementation and monitor the on-going service provision under the public-private collaboration model and the NGO subsidizing scheme. GCIO added that the Administration would be responsible for the capital expenditure of setting up the infrastructure, such as the underground ducts/conduits for the Wi-Fi network for some of the venues, whilst the Wi-Fi service providers would bear the recurrent expenditure of maintaining and upgrading the Wi-Fi equipment in future. Moreover, the Administration had already increased the connection speed per user of public Wi-Fi services in public libraries from 1-2 Mbps to 3-4 Mbps in early 2016.

20. Mr CHAN Chi-chuen expressed support for the implementation of the Wi-Fi Connected City initiative. Noting that OGCI O would progressively replace *GovWiFi* with Wi-Fi.HK as the single brand name for public Wi-Fi services at government venues, he enquired about the implications of the replacement from the users' perspective, such as whether the duration of connection would be shortened, and whether the quality of Wi-Fi.HK service would be monitored by a group similar to the existing *GovWiFi* Maintenance Board.

21. S for IT said that currently, *GovWiFi* provided service through the 2.4GHz band which supported legacy Wi-Fi standards (IEEE 802.11 b/g) and was vulnerable to interference. For the new Wi-Fi.HK hotspots provided under both the public-private collaboration and government-funded models, OGCI O would adopt the latest Wi-Fi standard IEEE 802.11ac which would improve data transfer speed and service stability. Wi-Fi.HK would be operated as a platform to ensure information security and service quality in terms of connection speed, coverage and interference which would be monitored by a third party entity in collaboration with the Steering Committee. GCIO added that OGCI O would conduct a pilot project adopting the public-private collaboration model for the provision of free Wi-Fi service to the public at some selected government venues with high patronage, with a view to taking forward the pilot project in over 100 venues across the 18 districts in Hong Kong. Based on the pilot results, OGCI O would formulate the long-term collaboration model and the details of the next implementation stage, including the types of government venues to be opened up, number of venues, geographical distribution as well as service requirements, such as free usage time, connection speed and technology standard, etc.

22. Mr Alvin YEUNG expressed support for the Wi-Fi Connected City initiative. He enquired about the scope for further enhancement of the free public Wi-Fi service, such as lengthening the free usage time at popular hotspots including public libraries, etc. Mr YEUNG also enquired how OGCI would minimize the problem of Wi-Fi interference between the service provided by Wi-Fi.HK and other Wi-Fi service providers.

23. DGCI advised that OGCI was mindful of the different service needs at different venues, and might adjust the service scope of free public Wi-Fi services at those venues accordingly. For example, OGCI would provide unlimited free public Wi-Fi service at popular venues such as public libraries and study rooms. To facilitate free public Wi-Fi users, OGCI would also consider the adoption of a daily free usage time quota so that they could freely use the allocated free usage time at their choice at different venues. As regards Wi-Fi interference, the proposed use of Wi-Fi standard IEEE 802.11ac would minimize the chances of interference and maximize stability of the service.

24. Ir Dr LO Wai-kwok welcomed the Administration's plan to expand the coverage of Wi-Fi.HK by doubling the number of hotspots from 17 000 to 34 000 in three years. Whilst recognizing the benefits of the public-private collaboration model, Ir Dr LO hoped that users would not be required to provide too much personal information and be inconvenienced by too many pop-up advertisements in using the free Wi-Fi service.

25. S for IT said that, in consultation with the private sector service providers, the Administration would strike a balance between business viability and privacy considerations. GCI said that the advice of the Office of the Privacy Commissioner for Personal Data would be sought to ensure that the provision of the service would be in compliance with the Personal Data (Privacy) Ordinance (Cap. 486).

26. Mr YIU Si-wing enquired about the implementation plan of the Wi-Fi Connected City initiative. He hoped that, with the complete roll-out of Wi-Fi services through public-private collaboration in large scale by the end of 2019, all tourist areas would be provided with free public Wi-Fi services with uniform connection speed and free usage time. He also suggested that the Government's announcements in public interest and advertisements of the Hong Kong Tourism Board should be given priority amongst pop-up advertisements distributed through free public Wi-Fi service.

27. S for IT replied that as the first step of the implementation plan after funding had been approved, the Administration would identify 100 venues across the 18 districts in Hong Kong for the pilot project as soon as possible.

The Administration planned to complete the roll-out of Wi-Fi services through public-private collaboration in 34 000 hotspots by end-2019. GCIO supplemented that OGCI would report the progress of implementing the Wi-Fi Connected City initiative to the Panel every year.

28. In response to Mr MA Fung-kwok's enquiry about how OGCI would monitor the performance of the free public Wi-Fi service providers, DGCI explained that the minimum download speed per user at government venues would be set at 4 Mbps which would be sufficient for social media applications and for sending/receiving e-mails. Service providers would be requested to set up additional hotspots or expand the network bandwidth if they could not meet the speed requirement.

29. The Chairman expressed support for the implementation of the Wi-Fi Connected City initiative under the auspices of the Innovation and Technology Bureau and the adoption of the public-private collaboration arrangement, which would help overcome some of the obstacles associated with inter-departmental co-ordination that had hampered the expansion of the coverage of free public Wi-Fi services in the past. She suggested that longer free usage time should be allowed in more popular hotspots such as public libraries, study rooms and tourist spots, and that OGCI should, in consultation with District Councils, set up more hotspots on top of the 100 venues in the pilot scheme. She enquired how the Administration would ensure the smooth implementation of the Wi-Fi Connected City initiative through inter-departmental co-ordination.

30. GCI advised that there would be five to six major participating B/Ds in the Wi-Fi Connected City initiative. OGCI would set up a Steering Committee and working groups with members from participating B/Ds, major NGOs and service providers to define the service scope and detailed requirements, oversee the implementation and monitor the on-going service provision under the public-private collaboration model and the NGO subsidizing arrangement.

31. Mr IP Kwok-him expressed support for the initiative to build Hong Kong as a Wi-Fi connected city. He said that the Administration should communicate clearly to the public the objective of the initiative as to how far the free public Wi-Fi services would be provided, so that they would not have unrealistic expectations on the scope of the free services. Mr IP asked whether the free public Wi-Fi services would be extended to cover public transport services provided by the Mass Transit Railway and franchised public buses.

32. S for IT said that the Administration would strike a balance between achieving the objective of the initiative and meeting public expectations. As regards whether free public Wi-Fi connection could be provided in public

transport, S for IT explained that the technology involved was a point-to-point connection which would become disconnected when the distance between the two points was lengthened. Some franchised bus operators were providing free Wi-Fi services in buses using a combination of both Wi-Fi and the fourth generation mobile telecommunications technology ("4G"). As 4G services were costly, service providers were unlikely to employ such technology to provide free public Internet connection services under the public-private collaboration approach unless there were strong commercial incentives to do so. Mr LEUNG Kwok-hung commented that the Administration should find a way to overcome the technology hurdle and provide free connection services in public transport otherwise the vision of a connected Wi-Fi city could not be said to be realized.

Information security

33. Noting the threat to information security posed by phishing websites, Mr TAM Yiu-chung enquired about the measures to enhance the security level of Wi-Fi.HK. GCIO advised that apart from educating the public about the importance of information security on the Internet, OGCIO would also encourage participating organizations of Wi-Fi.HK to enhance the security of their services through the use of server digital certificate so that the public and visitors could easily discern the legitimacy of the Wi-Fi services, thus further increasing their security and reliability. OGCIO would also seek registration of the "Wi-Fi.HK" trademark with the Intellectual Property Department.

Other issues

34. Mr NG Leung-sing welcomed the implementation of the Wi-Fi Connected City initiative. He enquired about the health risks posed by the Wi-Fi transmission if the whole city was connected by Wi-Fi. S for IT said that the latest technology used in the transmission of Wi-Fi signals involved the use of microcells with relatively lower radio frequency emissions and hence posed much lower health risks to the nearby residents.

Conclusion

35. The Chairman said that members had no objection for the Administration to seek the approval of the Finance Committee for the funding proposal to implement the Wi-Fi Connected City Programme.

V. Report on the findings of the survey on person-to-person telemarketing calls

- (LC Paper No. CB(4)816/15-16(05) -- Administration's paper on report on the findings of the survey on person-to-person telemarketing calls
- LC Paper No. CB(4)816/15-16(06) -- Paper on review on regulation of person-to-person telemarketing calls prepared by the Legislative Council Secretariat (Updated background brief)
- LC Paper No. CB(4)848/15-16(01) (tabled at the meeting and subsequently issued to members on 12 April 2016) -- Letter from Hon Charles Peter MOK dated 11 April 2016 on regulation of person-to-person telemarketing calls (Chinese version only)
- LC Paper No. CB(4)824/15-16(01) (tabled at the meeting and subsequently issued via e-mail on 11 April 2016) -- Administration's paper on report on the findings of the survey on person-to-person telemarketing calls (power-point presentation materials))

Presentation by the Administration

36. At the invitation of the Chairman, Secretary for Commerce and Economic Development ("SCED") briefed members on the key findings of the Consultancy Survey ("the Survey") commissioned by the Administration on person-to-person telemarketing calls ("P2P calls") and the proposed way forward in respect of the regulation of P2P calls in light of the results of the Survey. Principal Assistant Secretary for Commerce and Economic Development (Communications and Creative Industries)B then gave a power-point presentation on the subject. Details of the briefings and presentation were set out in the papers provided by the Administration (LC Paper Nos. CB(4)816/15-16(05) and CB(4)824/15-16(01)).

Discussion

Opinion towards regulation of person-to-person telemarketing calls

37. Noting the overwhelming disapproval of the public towards P2P calls, with a great majority (96%) of the respondents of the Survey considering that P2P calls had caused nuisance or inconvenience, Ms Claudia MO queried why the Administration still seemed reluctant to tighten the regulation of P2P calls, but instead resorted to proposing a public consultation on the regulation of P2P calls. She asked if the main consideration of the Administration was to retain the jobs of the 7 000 persons employed in the P2P calls market. She also enquired about the timing of the proposed public consultation.

38. SCED advised that the Administration adopted an open attitude on the regulation of P2P calls. Notwithstanding the findings of the Survey, the Administration considered it prudent to have a wider discussion of the pros and cons of stepping up the current regulatory regime. He expected the outcome of the public consultation exercise to be conducted later in 2016 would help the Administration chart the way forward while striking the right balance between the public's perception of P2P calls and the benefits of P2P calls, i.e. creation of job opportunities, and promoting commercial transactions, especially for small and medium enterprises ("SMEs"), etc.

39. Mr MA Fung-kwok noted that 86% of the respondents of the Survey were of the view that regulation should be expanded to cover all trades that made use of P2P calls, comprising 67.4% who supported regulation by legislation. Mr MA commented that the results were consistent with the outcome of another survey conducted by a social group with which he was affiliated. In that survey, Mr MA said that respondents expressed strong support for regulation of telemarketing practices with a statutory Do-Not-Call Register ("DNC register"). In view of the clear mandate, Mr MA Fung-kwok urged the Administration to take decisive action to regulate P2P calls, and to assist employees in the telemarketing industry affected by the regulation to change profession or to market their products and services through other channels such as the Internet.

40. SCED said that the Survey commissioned by the Commerce and Economic Development Bureau was a sampling survey aimed at capturing the latest situation of P2P calls as well as the employment and business profile of the industry. With the findings gathered from the Survey, the Administration was now in a better position to conduct the public consultation which would be a vital step for charting the way forward. In considering a stricter regulatory regime such as the adoption of a statutory DNC register, SCED said that there

were major challenges in enforcing regulations on P2P calls, including spoofing technology falsifying caller number display and the calls made from other jurisdictions. Investigations and enforcement were made difficult by P2P calls from other jurisdictions.

Existing regulatory regime

41. Noting that 57% of the responding companies in the industry survey (one of the two surveys conducted under the Survey) which were involved in making P2P calls indicated that their average transaction success rate was below 5%, Miss Alice MAK was of the view that P2P calls were no longer an effective means to promote commercial transactions and should be regulated. She also expressed concern about the misuse of personal data in P2P calls, especially in light of the recent spate of fraud cases involving financial intermediaries having access to the victims' personal data.

42. SCED advised that there were already provisions governing the use of personal data for particular purposes under existing laws such as the Personal Data (Privacy) Ordinance (Cap. 486) ("PDPO"). In considering whether to step up the regulation of P2P calls, e.g. by amending the Unsolicited Electronic Messages Ordinance (Cap. 593) ("UEMO"), to provide for the expansion of the existing do-not-call registers ("DNC registers") to include P2P calls, it was necessary to consider, amongst others, implications on the PDPO, and had to be widely consulted and thoroughly considered.

43. Dr CHIANG Lai-wan said that the Administration had taken too long to regulate P2P calls. She said that she had to make use of call blocking applications ("apps") and the built-in call blocking function of her smartphone to block unsolicited P2P calls. In order to help members of the public, especially the underprivileged groups and the elderly, from receiving such calls, she suggested that telecommunications operators should be encouraged to waive the fees charged on the caller display function. In addition, the Government should develop call-blocking apps for use by smartphone users, and educate the public on how to use the call blocking function on their smartphones.

44. SCED advised that to minimize the nuisance caused to the public by P2P calls, the Government had since end-2010 actively encouraged the trade associations of the four sectors (i.e. finance, insurance, telecommunications and call centres) to draw up and issue their respective codes of practice on P2P calls ("industry codes") and to encourage the industries concerned to adopt the best practice recommended in their industry codes in making P2P calls. Since June 2011, the four trade associations had already joined the self-regulatory scheme on P2P calls, and such calls made by members of these trade associations were

regulated by their industry codes. According to the industry codes, a telemarketer who made a P2P call should not conceal or withhold from the called party the calling line identification information of the sending telephone number.

45. Mr TAM Yiu-chung held the view that P2P calls were an ineffective marketing tool but had brought about much nuisance to the general public. People often received P2P calls even when they were out of town. Many of such calls were related to the finance and telecommunications sectors, and in some cases the callers' numbers were not displayed, making it difficult to block the calls. Asking the callers to stop calling also seemed ineffective to prevent P2P calls. Nevertheless, Mr TAM agreed that it might be difficult to regulate P2P calls through legislation, especially for those calls from outside Hong Kong. Noting that there were still 7 000 employees in the P2P marketing industry, Mr TAM suggested that the Administration should encourage the industry to switch to other modes of operation, e.g. marketing their products and services online.

46. SCED noted Mr TAM Yiu-chung's views and advised that, according to the industry codes, if a telemarketer, when making a P2P call, was aware that the called party was travelling overseas, he or she should endeavour to disconnect the call.

47. Mr LEUNG Kwok-hung said that as the number of persons employed in Hong Kong who were involved in making P2P calls had dropped from about 22 500 in 2009 to around 7 000 in 2015, the Administration should step up efforts in introducing statutory regulation, e.g. by imposing sanctions on the persons who engaged telemarketers/call centres to make P2P calls from other jurisdictions on their behalf.

48. SCED said that the issues raised by Mr LEUNG would be included in the proposed public consultation. He added that the problem of P2P calls from other jurisdictions were not unique to Hong Kong. For example, Macau also encountered difficulty in investigations as the majority of the P2P calls were made from outside the jurisdiction.

49. Mr CHAN Chi-chuen said that the existing legislation was outdated and could not address the actual problems; it needed to be amended to deal with the problems associated with P2P calls. He enquired if the Administration would conduct an open-ended public consultation, or if the consultation was intended to pave the way for formulating legislation to regulate P2P calls. He expressed concern that if the Administration was still conducting an open-ended consultation without a clear goal of introducing statutory regulation, it might

take at least another five years before the relevant legislation was introduced.

50. SCED advised that in the public consultation, the Administration aimed to present the key information collected in the surveys to facilitate an informed discussion. The Administration expected to seek public views on whether the regulation of P2P calls should be strengthened, and if so, the specific modes of regulation and the relevant considerations.

51. Mr WONG Yuk-man said that the issue of P2P calls had been followed up by the Panel for many years. P2P calls were not necessarily made by SMEs, and large banks were often involved in making such calls. Mr WONG commented that P2P calls had become a public nuisance which did not contribute much to job creation in Hong Kong. As there was already a consensus in the society and amongst members for regulation by legislation, he was of the view that P2P calls should be regulated without further delay and consultations.

52. Mr CHAN Kam-lam noted that a total of 209 351 P2P calls were made by the responding companies daily in 2015. He said that it was clear from the findings of the Survey that the Administration should step up regulatory efforts to address the problem of P2P calls, either through legislative amendment or the setting up of a statutory DNC register on P2P calls.

53. SCED advised that the Survey was conducted to gauge the latest situation following the previous surveys conducted by the Administration in 2008 and 2009. Since then, the Personal Data (Privacy) (Amendment) Ordinance 2012 ("Amendment Ordinance") had introduced multiple amendments to PDPO to strengthen the protection of personal data privacy. New provisions concerning direct marketing, including the provision which required that a data user must not use personal data in direct marketing without data subject's consent, commenced operation on 1 April 2013. That said, SCED noted the consensus view of members on strengthening regulation of P2P calls.

54. Mr YIU Si-wing said that, notwithstanding the nuisance caused by P2P calls, the economic benefits brought by P2P calls in terms of creating job opportunities and facilitating commercial transactions should not be ruled out completely. He agreed that further consultation on the regulation of P2P calls was necessary, and public views might be sought on the setting up of a complaint handling mechanism.

55. SCED advised that PDPO already had provisions to tackle P2P calls involving the use of personal data. For P2P calls not involving the use of personal data, the industry codes contained requirements governing the making

of P2P calls, e.g. a telemarketer should not make any further P2P calls to a number after the registered user of that number had made an unsubscribe request.

56. Mr Paul TSE said that UEMO, which came into operation in December 2007, already provided a framework for the regulation of P2P calls. He said that SCED was authorized under section 7(2) of UEMO to amend Schedule 1 by notice published in the Gazette. The main purpose of this provision was to allow SCED to add to the list of exclusions with flexibility in response to technological changes and other new developments. In view of the overwhelming public support for tightening of regulation of P2P calls and the large proportion of P2P calls involving the use of the recipients' personal data, as well as the recent spate of fraud cases involving recipients of P2P calls being lured into borrowing hefty sums of money from financial institutions, Mr Paul TSE urged the Administration to take immediate steps to tighten regulation of P2P calls without further procrastination.

57. SCED said that the issues relating to regulation of P2P calls were more complicated than originally envisaged. For example, it was difficult to define what constituted a telemarketing call and to define the scope of exemption. Moreover, the challenges posed by P2P calls from other jurisdictions were difficult to overcome. More thorough discussion and consideration on the way forward was necessary.

58. Mr Alvin YEUNG said that it was against the principle of proportionality to maintain the employment opportunities of 7 000 persons at the expense of all the people of Hong Kong. Regarding the DNC register, instead of the current opt-out mechanism under the UEMO which assumed that people were willing to receive P2P calls unless they indicated otherwise, Mr YEUNG suggested the adoption of an opt-in approach which assumed that people were unwilling to receive such calls at the outset. People who were willing to receive P2P calls could simply subscribe to the call register in order to receive such calls. In order to deal with the problem of P2P calls from overseas, he suggested that the Administration should explore judicial co-operation with other jurisdictions, including the Mainland authorities.

59. SCED said that in most jurisdictions with statutory regulation on P2P calls, an opt-out approach was adopted. However, in certain jurisdictions in the European Union, the opt-in approach was used. In the upcoming public consultation, the Administration would solicit the public's views on the different approaches.

Conclusion

60. The Chairman concluded that the public had clearly articulated their calls for tightening the regulation of P2P calls. The Survey affirmed the public and members' consensus on tightening regulation. She hoped that the public consultation should be aimed at soliciting the public's views on how, rather than whether, P2P calls should be regulated. She urged the Administration to put forward substantive proposals on how to deal with P2P calls as a matter of urgency to address the expectation of the community.

VI. Any other business

61. There being no other business, the meeting ended at 4:30 pm.

Council Business Division 4
Legislative Council Secretariat
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