

立法會
Legislative Council

LC Paper No. CB(1)1290/18-19
(These minutes have been seen
by the Administration)

Ref : CB1/PL/ITB

Panel on Information Technology and Broadcasting

Minutes of meeting
held on Friday, 10 May 2019, at 10:45 am
in Conference Room 3 of the Legislative Council Complex

- Members present** : Dr Hon Elizabeth QUAT, BBS, JP (Chairman)
Hon Charles Peter MOK, JP (Deputy Chairman)
Hon James TO Kun-sun
Hon WONG Ting-kwong, GBS, JP
Hon Mrs Regina IP LAU Suk-ye, GBS, JP
Hon Paul TSE Wai-chun, JP
Hon Claudia MO
Hon YIU Si-wing, BBS
Hon MA Fung-kwok, SBS, JP
Hon CHAN Chi-chuen
Ir Dr Hon LO Wai-kwok, SBS, MH, JP
Hon CHUNG Kwok-pan
Hon Alvin YEUNG
Hon CHU Hoi-dick
Hon YUNG Hoi-yan
Hon CHAN Chun-ying
Hon HUI Chi-fung
- Member absent** : Hon CHAN Kin-por, GBS, JP
- Member attending** : Hon KWONG Chun-yu

**Public officers
attending**

: Agenda item IV

Innovation and Technology Bureau

Dr David CHUNG Wai-keung, JP
Under Secretary for Innovation and Technology

Mr Alan LO Ying-ki
Principal Assistant Secretary for Innovation and
Technology (4)

Mr Victor LAM Wai-kiu, JP
Government Chief Information Officer

Mr Jason PUN Si-keung
Assistant Government Chief Information Officer
(Cyber Security and Digital Identity) (CSD)

Agenda item V

Commerce and Economic Development Bureau

Mr Edward YAU, GBS, JP
Secretary for Commerce and Economic Development

Mr Clement LEUNG, JP
Permanent Secretary for Commerce and Economic
Development (Communications and Creative
Industries)

Office of the Communications Authority

Mr Chaucer LEUNG
Deputy Director-General (Telecommunications)

Agenda item VI

Commerce and Economic Development Bureau

Mr Edward YAU, GBS, JP
Secretary for Commerce and Economic Development

Mr Clement LEUNG, JP
Permanent Secretary for Commerce and Economic
Development (Communications and Creative
Industries)

Judiciary

Mrs Erika HUI, JP
Deputy Judiciary Administrator (Operations)

Ms Wendy CHEUNG
Assistant Judiciary Administrator (Development) 1

Office for Film, Newspaper and Article
Administration

Miss Agnes WONG, JP
Director of Film, Newspaper and Article
Administration

Miss Natalie LI
Assistant Director (Film, Newspaper and Article
Administration)

Clerk in attendance : Mr Daniel SIN
Chief Council Secretary (1)6

Staff in attendance : Ms Mandy LI
Senior Council Secretary (1)6

Mr Patrick CHOI
Council Secretary (1)6

Miss Yolanda CHEUK
Legislative Assistant (1)6

Action

I. Confirmation of minutes

(LC Paper No. CB(1)1003/18-19 -- Minutes of meeting held on
11 March 2019)

The minutes of the meeting held on 11 March 2019 were confirmed.

II. Information paper(s) issued since the last meeting

2. Members noted that no paper had been issued since the last meeting held on 16 April 2019.

III. Date of next meeting and items for discussion

(LC Paper No. CB(1)1020/18-19(01) -- List of outstanding items for discussion

LC Paper No. CB(1)1020/18-19(02) -- List of follow-up actions)

Regular meeting on 10 June 2019

3. Members noted that the next regular Panel meeting would be held on Monday, 10 June 2019 at 2:30 pm to discuss the following items:

- (a) Progress of e-Government; and
- (b) Report on the work of Create Hong Kong and Hong Kong Design Centre in 2018-2019 with Work Plan for 2019-2020.

IV. Electronic Identity

(LC Paper No. CB(1)1020/18-19(03) -- Administration's paper on electronic identity

LC Paper No. CB(1)1020/18-19(04) -- Paper on electronic identity project prepared by the Legislative Council Secretariat (Background brief))

Briefing by the Administration

4. At the invitation of the Deputy Chairman, Under Secretary for Innovation and Technology ("US for IT") briefed members on the latest developments of the electronic identity ("eID") project. US for IT said that the

2017 Policy Address announced the development of three key smart city infrastructure projects, including the provision of an eID for all Hong Kong residents free of charge starting from mid-2020, enabling them to use a single digital identity and authentication to conduct online government and commercial transactions, and to foster the development of innovative online services. Details of the briefing were given in the Administration's paper (LC Paper No. CB(1)1020/18-19(03)).

Discussion

eID system development and testing

5. Mr CHAN Chun-ying noted that any organization adopting eID could only make use of the application programming interfaces ("APIs") provided by the Office of the Government Chief Information Officer ("OGCIO") and after verification of server certificates. He enquired whether private organizations should acquire the necessary equipment through OGCIO or purchase equipment of specific models by themselves. Government Chief Information Officer ("GCIO") advised that, in using eID in their services, private organizations would only need to register with OGCIO and access the eID system through their information systems without the need to procure any specific equipment. OGCIO would invite interested organizations to participate in testing eID adoption in their online services so as to ensure compliance with the information security and related technical specifications.

6. Mr YIU Si-wing noted that OGCIO had awarded the contracts for the development of the eID system. He asked about the legal responsibilities contractors would need to bear if they failed to complete system development in accordance with the schedule, or if there were security loopholes in the course of system development, leading to personal data leakages or hacking of the eID system.

7. GCIO advised that eID contractors were liable to a penalty if there was delay in the system development. OGCIO would monitor the system design, development and testing processes to ensure that the contractors would adhere to the work schedule. In general, OGCIO was responsible for the operation of the eID system whereas the contractors were required to maintain the system infrastructure and associated equipment in good conditions. Likewise, the contractors were liable to a penalty if they failed to do so. Resilience facilities would be in place to ensure stability in operation.

8. Mr CHAN Chi-chuen noted that OGCIO had awarded the contracts to Ping An Technology (Shenzhen) Co., Ltd. for the development of the eID

system in end-February 2019. He pointed out that there were public concerns about whether the eID system would leave a backdoor through which personal data might be leaked to databases of other organizations or other jurisdictions outside Hong Kong. Noting that OGCIO would engage independent third parties to conduct privacy impact assessments, privacy compliance audits, and information security risk assessments and audits, Mr CHAN asked about the details of the assessments and whether the Administration would conduct similar assessments. He also expressed concerns about how the independent third parties would be engaged and how the Administration would ensure these third parties had no connections with the contractors.

9. GCIO responded that OGCIO would engage independent third parties to conduct privacy impact and information security risk assessments and audits, including source code review and penetration tests, to protect personal privacy and ensure system security. Third parties would be appointed through open tendering in accordance with the established procurement procedures. In response to a further enquiry from Mr CHAN Chi-chuen, GCIO added that the independent third parties would normally be selected from audit firms which possessed relevant experience in privacy and information security compliance audits. The Administration assured members that there were arrangements to ensure the independent third parties had no connection with the contractors.

10. The Deputy Chairman said that the industry was concerned about the opportunities for local companies to participate in major information technology infrastructure projects as it would enable the industry to acquire practical experience and to benefit from exploiting the opportunities on the Mainland and elsewhere. He noted that the Hong Kong Monetary Authority ("HKMA") had recently granted a banking licence under the Banking Ordinance (Cap. 155) for Ping An OneConnect Company Limited to operate a "virtual bank". The Deputy Chairman enquired about the measures the Administration would take to avoid conflicts of interest when the contractors developing the eID system and the financial institutions operating the virtual bank were under same group of companies. He suggested that the Administration should stipulate in the tender documents the relevant requirements, consult the Competition Commission on related matters and/or seek legal advice from regulators where necessary. US for IT agreed to consider all regulation requirements.

eID registration and usage

11. Mr Alvin YEUNG noted that Hong Kong residents could register for eID using a mobile app installed on their personal mobile devices. He pointed out that not all residents possessed up-to-date models of mobile devices; in particular, many elderly persons were still using old models of mobile phones.

Mr YEUNG asked what measures the Administration would take to assist those people in using eID. The Deputy Chairman enquired whether computers would support the use of eID.

12. GCIO responded that the Administration would try to make the eID registration and operation platforms compatible with different models of mobile devices in use as far as possible. In doing so, OGCI would test various mobile device models to ascertain that the authentication systems of these devices meet the required standard and security requirements, such as Fast Identity Online for protection of personal identity on mobile devices. GCIO added that with eID, the public would no longer require username and password to access online services. The public could still access online services using conventional methods if they did not obtain their eID. Users could also use computers to access online services, after successfully authenticating themselves with eID using tablets or mobile devices.

13. Mr MA Fung-kwok asked whether the Administration had any plans to expand the application of eID, including whether the Administration would consider incorporating electronic customs clearance functions into the eID system so that the public could use facial recognition technology to go through customs clearance procedure, thereby shortening the time required for immigration clearance. GCIO advised that the public could make use of the biometric functions (including facial recognition, fingerprint identification, etc.) available in their personal mobile devices to authenticate their identities and access various government and commercial e-services in a simple, convenient and secure manner. He said that further discussions might be held among relevant departments on the wider adoption of eID for identity authentication.

14. Mr CHAN Chun-ying noted that eID would be adopted by 26 e-government services in mid-2020. He queried why the Leisure and Cultural Services Department ("LCSD") did not adopt eID in the first phase of the launch of e-government services. Mr CHAN asked whether and when LCSD would adopt eID so as to combat touting activities for sports facilities under its management. GCIO indicated that LCSD was developing a new intelligent sports and recreation services booking and information system. The new system would comprise two phases which were planned to be launched by 2021-2022 and 2023-2024 respectively. LCSD would adopt eID upon the completion of the development.

15. Mr CHAN Chun-ying also noted that OGCI would introduce a new service "e-ME" on GovHK portal, providing an option for residents with eID to set up e-ME accounts with personal data (including name, gender, Hong Kong identity card number, date of birth, residential address, contact telephone

number, etc.). He enquired whether the Administration would consider establishing a three-tiered system to facilitate eID users in deciding about the extent of data to be disclosed so that different natures of personal data might be released for various purposes.

16. GCIO replied that it would be up to eID holders to decide whether their personal data stored in "e-ME" could be provided for use by other government departments or private organizations. Besides, eID holders could choose and determine the personal data to be transferred by indicating in the user interface their preference. The Deputy Chairman suggested that the Administration should clearly introduce the option of allowing his/her data to be transferred in the user interface of eID. GCIO agreed.

17. Noting that eID would be widely connected to different public services in future and residents might procure services when necessary, Mr YIU Si-wing asked whether and when eID would support the use of electronic money for payment of Government fees and charges. GCIO responded that OGCIIO was liaising with the relevant stakeholders/regulators, such as HKMA, on how to facilitate the public to conduct electronic transactions requiring payment by using eID.

Participation by the private sector

18. Mr YIU Si-wing sought information on the criteria and timetable for engaging private organizations to participate in the development of APIs as a means to promote the popularity and adoption of eID. The Chairman expressed similar concerns. She asked when the Administration would arrange briefing sessions for the industry to facilitate their planning for computer system upgrade. She was also concerned whether fees would be charged for the use of APIs by private organizations.

19. US for IT and GCIO replied that OGCIIO would provide interested organizations with the technical information on eID-related APIs in the third quarter of 2019. Whilst the Administration expected more private organizations would make use of eID, any organization adopting eID was required to comply with the information security and related technical requirements set out in the terms of use of eID. GCIO added that in view that the use of APIs by private organizations might involve significant public resources, the Administration would decide whether fees would be charged for the use of APIs by private organizations in the second half of 2019. In response to another enquiry from the Chairman, GCIO said that the Hong Kong Jockey Club had indicated interest to adopt eID. It was expected that the demand for eID system resources would increase substantially during horse racing activities.

Timeframe for commencement of operation

20. The Chairman enquired about the timetable for full adoption of eID in e-government services. GCIO responded that eID would be adopted in 26 e-government services upon its launch in mid-2020. Most e-government services (over 110 types of services) would accept user login using eID by mid-2021. Moreover, members of the public would be able to use eID to submit electronically almost all of the 3 000 government forms. The remaining e-government services would adopt eID progressively by 2023 when the major upgrade of the relevant systems was completed. By then, all e-government services would adopt eID as their only or primary access means. The Chairman expressed support for the development of the eID system, and urged the Administration for the early implementation of the system.

Protection of privacy

21. Mr Alvin YEUNG commented that the relevant stipulations and penalties under the Personal Data (Privacy) Ordinance (Cap. 486) ("PDPO") were ineffective in regulating leakage of personal data. He expressed concerns that personal data owned by public and private organizations might be exposed, especially through the use of the eID system. He asked whether the Administration would consider amending PDPO so as to impose more stringent sanctions against data leakage and to ensure protection of privacy. Mr MA Fung-kwok asked how the Administration would ensure protection of personal data privacy in the eID system, in particular preventing unauthorized use of personal data by third party companies.

22. US for IT replied that the Administration would adopt prevailing internationally recognized security technologies and standards to authenticate the identity of users. Users' data would also be encrypted and stored in government data centre facilities to protect the security of users' data. The Administration had also maintained communication with the Office of the Privacy Commissioner for Personal Data regarding the protection of personal data during the eID system development, and strived to ensure the compliance with PDPO.

23. Mr CHAN Chi-chuen expressed concerns that the biometric characteristics identification features available in smartphones, such as facial recognition, might be less secure for twins. He queried whether the eID system would be confronted with similar risks when residents using facial recognition.

24. GCIO responded that in addition to facial recognition, eID users could make use of other biometric identification features available in smartphones to authenticate their identities and access online services. In addition, if eID users would like to use eID for digital signing, they were required to register a full-version eID in-person at designated self-service registration kiosks or service counters. The eID system would retrieve the data stored in the chip of the Hong Kong identity card and verify the user identity again in order to complete the full-version eID registration. This would provide eID users with better protection.

Smart Government

25. Ir Dr LO Wai-kwok considered that the objective of the eID system was to facilitate the public access to various government and commercial electronic services. He mentioned that the delegation had visited the Hangzhou Citizen Center during the join-Panel duty visit to the major cities in the Yangtze River Delta Region. In particular, he was impressed by the one-stop application service for residents and enterprises at the "Home of Citizens" of the Hangzhou Citizen Center. The Chairman expressed similar views. She asked whether the Administration would adopt similar direction in promoting Smart Government. Ir Dr LO commented that Smart People and Smart Government were conducive to smart city development, and he asked about the Administration's visions in this regard.

26. US for IT responded that the Administration had promulgated the "Smart City Blueprint for Hong Kong" ("the Blueprint") which covered over 70 concrete initiatives. The review of the Blueprint was underway whereas the next phase of the Blueprint would be announced in due course. Digital infrastructure was an essential element for smart city development. With the implementation of eID, it would facilitate the development of e-government services and streamline relevant processes. GCIO said that an objective was to encourage the wider use of eID in public e-services and online transactions with the Government and the commercial sector.

V. Assignment of spectrum for fifth generation mobile services

(LC Paper No. CB(1)1020/18-19(05) -- Administration's paper on assignment of spectrum for fifth generation mobile services

LC Paper No. CB(1)1020/18-19(06) -- Paper on the spectrum assignment and the fifth generation mobile services prepared by the Legislative Council Secretariat (Background brief)

Briefing by the Administration

27. At the invitation of the Chairman, Deputy Director-General (Telecommunications) of the Office of the Communications Authority ("DDG(T), OFCA") briefed members on the assignment of spectrum for fifth generation ("5G") mobile services. He said that a total of 1 200 MHz of spectrum in the 26/28 GHz bands had been assigned administratively, whilst a total of 380 MHz of spectrum in the 3.5/3.3/4.9 GHz bands would be assigned by auctions. In order to implement the decisions on the auctions and relevant arrangements, two pieces of subsidiary legislation would be tabled for consideration of the Legislative Council by way of negative vetting. The auctions of the above frequency bands were expected to be held in the second half of 2019 subject to the completion of the legislative exercise before the end of this legislative session. Details of the briefing were given in the Administration's paper (LC Paper No. CB(1)1020/18-19(05))

Discussion

Opening up of government premises for mobile network operators to install base stations

28. Mr MA Fung-kwok asked about the level of fees charged for the use of government premises, if any, under the Pilot Scheme for Installation of Radio Base Stations at Selected Government Venues ("the Pilot Scheme") and the sector's response to the Pilot Scheme.

29. Permanent Secretary for Commerce and Economic Development (Communications and Creative Industries) ("PS(CCI)) said that a one-off access fee of around \$70,000 and a nominal rental were chargeable for the use of each government premises for installation of radio base stations ("RBSs"). PS(CCI) added that the response from mobile network operators ("MNOs") to the Pilot Scheme was positive and they had been coordinating among themselves to use, as a start, 250 of the around 1 000 premises made available under the Pilot Scheme. The Administration expected that the vetting of the first batch of applications would be completed in two to six months.

30. Mr YIU Si-wing asked how many MNOs were allowed to install RBSs at each government premises under the Pilot Scheme, and whether a MNO would be able to provide 5G services in a certain area if it could not install a RBS at a government premises. DDG(T) replied that the number of operators who were permitted to install RBS at a government premises under the Pilot Scheme would depend on the space available. The Administration might need to draw lots to determine which operator(s) might use the premises in case of competing demand. DDG(T) added that MNOs might also choose to install RBSs in private premises nearby.

Restriction zones

31. Mr Alvin YEUNG asked how the 5G mobile services would be affected in the restriction zones at Tai Po and Stanley.

32. DDG(T) said that OFCA had formed a working group with representatives from MNOs, satellite operators, the Hong Kong Applied Science and Technology Research Institute and the Hong Kong Science Park to explore feasible technical arrangements for deployment of RBSs operating in the 3.5 GHz band within the restriction zones. The working group had worked out relevant technical arrangements including a maximum permissible interference limit for compliance by MNOs which would deploy RBSs operating in the 3.5 GHz band within the restriction zones. The Administration expected that limited services might be provided using the 3.5 GHz band in indoor locations, or locations where they were far from the subject satellite antennae or where they were blocked from the satellite antennae by buildings. DDG(T) added that MNOs might offer 5G mobile services using other frequency bands, such as the 4.9 GHz, 26 GHz or 28 GHz bands. They might also refarm the spectrum currently used for provision of 2G, 3G, or 4G services to offer 5G services there.

33. In response to another enquiry from Mr Alvin YEUNG, PS(CCI) added that it would be difficult for the time being to estimate the number of users that might be affected if 3.5 GHz spectrum could not be used in the restriction zones, as it depended on the outcome of the relevant spectrum to be assigned to MNOs later this year.

34. The Deputy Chairman asked whether the Administration would consider relocating the satellite earth stations for the telemetry, tracking and control of satellites in orbit from the restriction zones to other locations before or upon expiry of their leases. The Chairman expressed similar concerns. Secretary for Commerce and Economic Development ("SCED") said that the Administration would keep under review the suggestion to relocate the earth stations; but it had to balance the interests of all stakeholders, including the licensees of these earth

stations.

Supportive measures for the provision of fifth generation mobile services

35. The Deputy Chairman said the industry was concerned about the high infrastructure costs associated with the provision of 5G mobile services, which were characterized by large spectrum bandwidth and RBS density. The Deputy Chairman said that the trade would welcome the Administration's lowering of the auction reserve prices and its facilitation of network rollout in some difficult areas such as MTR premises. The Chairman expressed similar concerns and urged the Administration to lower the reserve prices and the bid increment in the spectrum auctions.

36. SCED said that there were numerous spectrum bands that could be used for providing 5G services. He said that some 4 100 MHz of spectrum in the 26/28 GHz bands had been made available by administrative arrangements without any spectrum utilization fee ("SUF"). As there was competition for the use of the spectrum in the 3.5/3.3/4.9 GHz bands, the Administration would assign them using a market-based approach. The ultimate price of the spectrum would be determined by the market. SCED stressed that the assignment of spectrum by auction was not a means to create revenue. As regards the cost of installing RBSs, SCED said that the Pilot Scheme had served to relieve the industry's burden, whilst the relevant fees were set at a level to recover the administrative costs only. The Administration would maintain a dialogue with the trade to address their needs.

Access to premises for installation of radio base stations

37. The Chairman said that unlike fixed line networks, there were no provisions in the law to require property owners to give access to MNOs to install RBSs in their premises. DDG(T) clarified that, as in the case of fixed line networks, MNOs could apply to the Communications Authority ("CA") for an authorization to place and maintain radiocommunications installation on any premises if the applicants could prove that there was no alternative for installation of the facilities.

38. The Chairman commented that applying for authorization for each installation work was time consuming. The Deputy Chairman echoed the Chairman's comments and urged the Administration to review the relevant legislation and provide necessary support to the trade.

Introduction of fifth generation mobile services into the consumer market

39. Mr MA Fung-kwok enquired the expected time line and price of 5G mobile services in the consumer market at its launch. PS(CCI) said that while commercial 5G mobile services in Hong Kong was expected by the trade to be launched in 2020, the Administration was not aware of the pricing information which comprised a business decision outside the scope of the regulatory framework.

40. Mr MA Fung-kwok also asked whether the Administration was aware of any plan of the operators to reform their existing spectrum for the provision of 5G mobile services, and if so, how the current users of 2G or 3G mobile services could be protected from being forced to upgrade their subscription plans. PS(CCI) said that while the operators had the flexibility under their existing licences to reform their spectrum to provide 5G services, the market seemed to have adopted a voluntary approach in attracting consumers to switch to newer technology. Given that there were still many users of the 2G mobile services, the Administration did not have any plan to require operators to cease 2G services in Hong Kong.

41. Mr YIU Si-wing enquired whether 5G services would cover all of Hong Kong in 2020 when it was launched. DDG(T) said that MNOs would likely start to install RBSs and offer 5G services in densely-populated areas first while other areas remained to be supported by existing 2G, 3G or 4G networks.

Compatibility of mobile devices with older technology

42. Mr YIU Si-wing asked what the implications were if there was slippage in the launch of 5G mobile services in Hong Kong by 2020, and whether, under such circumstances, mobile phones currently in use in Hong Kong might not be compatible with the 5G communications systems elsewhere.

43. SCED said that the launch of 5G mobile services would not preclude the continued use of other mobile services. While 5G services would be available from 2020, different places might have different paces in the development of the services. The Administration's role was to assign the requisite spectrum for MNOs as early as possible so that they could make preparation for the provision of 5G mobile services.

44. DDG(T) added that mobile phones were generally compatible with multiple technical standards which allowed them to connect to any of the compatible networks available at a particular location, using either 2G, 3G, 4G or 5G technologies.

Legislative timetable of the subsidiary legislation

45. Mr Alvin YEUNG said that the Administration should have consulted the Panel on the proposal related to the assignment of 5G spectrum a couple of months ago. He queried the reasons of slippage. PS(CCI) said that SCED and CA promulgated three Joint Statements on 13 December 2018 to announce their respective decisions on the frequency allocation and assignment arrangements for the spectrum in these frequency bands, as well as the related SUF. Since then, the Administration had received views and suggestions from the industry and time had been taken to address the sector's queries and concerns.

46. Mrs Regina IP queried about the Administration's legislative timetable and the implications of any slippage in the legislative process. PS(CCI) said that the subsidiary legislation to designate certain frequency bands to be subject to auctions and to determine SUF through auctions was relatively straight forward. If the legislative process could be completed within the current legislative session, the relevant spectrum could be assigned by auctions around October 2019. In case of slippage in the legislative process, the auctions might be delayed until the first or second quarter of 2020.

VI. Update on the Review of the Control of Obscene and Indecent Articles Ordinance (Cap. 390)

(LC Paper No. CB(1)1020/18-19(07) -- Administration's paper on the Control of Obscene and Indecent Articles Ordinance (Cap. 390)

LC Paper No. CB(1)1020/18-19(08) -- Paper on the review of the Control of Obscene and Indecent Articles Ordinance prepared by the Legislative Council Secretariat (Updated background brief)

Briefing by the Administration

47. At the invitation of the Chairman, SCED briefed members on the review of the Control of Obscene and Indecent Articles Ordinance (Cap. 390), and introduced three broad principles by which, in the Administration's view, the

Obscene Articles Tribunal ("OAT") considered when handling the classification of articles under the provisions of Cap. 390. SCED also briefed members on OAT's adjudicator system and review mechanism, and touched on some major suggestions or comments in society towards OAT's operation. He summed up the briefing by elaborating on various suggestions and proposals as detailed in the Administration's paper (LC Paper No. CB(1)1020/18-19(07)).

Discussion

Possible controversial classifications in future

48. Mr KWONG Chun-yu referred to OAT's classification of a set of translated Japanese novels by a renowned author as Class II article (i.e. indecent article) in July 2018 and commented that the Administration's proposals could not prevent similar controversies from arising in the future.

49. SCED responded that OAT's classification would not have regard to the author of an article, but rather to a list of factors stated in Cap. 390. In the case as Mr KWONG Chun-yu mentioned, SCED said that the set of novels was displayed at a public book fair accessible to children and teenagers, and the organizer thus considered that appropriate measures needed to be taken in light of the classification of the novels by OAT. SCED said that while the community might have divergent views on OAT's classification, it was critical that a clear and effective mechanism for review and appeal was in place to handle each case fairly and to properly balance the interests of all sectors of society and to protect public morals.

50. Ms Claudia MO questioned whether the Administration was trying to interfere with people's freedom of expression by censoring certain articles in the name of obscenity and indecency. Ms MO challenged whether the literatures of internationally renowned writers or Nobel laureates should be subject to the classification system on obscenity and indecency.

51. SCED stressed that in our legal system, "obscenity" and "indecency" were relative rather than absolute concepts, and they should be considered in the context of the prevailing standards of the local community, the effect of an article as a whole, and the policy objective to protect youngsters and children from the effects of objectionable articles. These concepts might vary and change with time, and there would hardly be an enduring set of standards nor a perpetual list of "morally acceptable artwork creators".

Adjudicator system

52. Mr CHAN Chi-chuen and Mr CHU Hoi-dick suggested that the number of adjudicators should be increased to widen the representation of OAT, regardless of OAT's annual caseload.

53. SCED said that the Judiciary had recently reviewed the number of adjudicators needed in light of the significant decrease of about 80% in OAT's total caseload in the last ten years. Deputy Judiciary Administrator (Operations) added that, for better accumulation of experience, the Judiciary considered it prudent to increase the size of adjudicators from 500 to around 750 first, and would continue to gauge the need for any further adjustment.

54. Mr KWONG Chun-yu expressed concern whether OAT's classifications might be rigged. The Chairman asked how the Administration would prevent people with similar ethical values from dominating the panel of adjudicators.

55. SCED said that the classification system and standards under Cap. 390 were intended to reflect standards of morality, decency and propriety that were generally accepted by reasonable members of the community. A panel of adjudicators consisting of members of the general public aligned with this policy intent. Suggestions to alter the composition and background of the adjudicators, such as imposing certain educational attainment requirements and adding representation from specific cultural, artistic or other professional backgrounds would run contrary to the policy intent, and would unlikely render the classification system more impartial.

56. Deputy Judiciary Administrator (Operations) advised that the Judiciary had reservations about the suggestion of replacing the current adjudicator system with a jury system. She said that the proposal would have several major implications. First, the proposal would fundamentally change the long-established practice and culture of the jury system by extending its scope, which would have implications including a heavy drain on judicial resources and insufficiency of eligible jurors. Secondly, some jurors might not like to perform OAT functions. Thirdly, replacing the adjudicator system with a jury system would significantly lengthen OAT hearings and lower OAT's efficiency. Finally, the number of jurors that would be required would likely increase which would possibly cause concerns in some quarters of the community.

Review mechanism

57. Mr CHAN Chi-chuen noted that under the existing legislation, only a relevant party might require OAT to review an interim classification within five

days of that interim classification taking effect. He asked whether the Administration would relax the five-day period and allow others, such as a member of the public, to appeal against a classification on grounds of public interest. Mr MA Fung-kwok expressed similar concern. Director of Film, Newspaper and Article Administration responded that, apart from reviewing an interim classification, OAT could, of its own motion or at the request of a relevant party, reconsider the classification of an article pursuant to section 17 of Cap. 390. The five-day period applied only to the review of interim classification.

Implementation of the Control of Obscene and Indecent Articles Ordinance

58. Mr CHAN Chi-chuen held the view that a training programme, rather than one-off thematic talks or sharing sessions, would be required for enriching the knowledge and broadening the vision in arts and literature of staff responsible for enforcement work. Director of Film, Newspaper and Article Administration responded that training programmes on subjects such as visual arts had been in place and would continue to be provided for the staff of the Office for Film, Newspaper & Article Administration. On top of these, thematic talks/sharing sessions would be arranged to enhance staff training.

59. Mr CHU Hoi-dick referred to the submission from the House of Hong Kong Literature and suggested that professional bodies should be involved in the drafting of enforcement guidelines. SCED said that the Administration appreciated the importance for enforcement staff to stay more attuned to the latest trends in arts and literature and the prevailing standards of morality, decency and propriety generally accepted by the community. The Administration would consider, as appropriate, suggestions for better equipping staff in conducting enforcement work under Cap. 390.

60. Mr CHAN Chun-ying asked whether the Administration was prepared to regulate obscene and indecent contents published on the Internet more proactively. SCED said that given the volume and nature of Internet contents, it would be infeasible to adopt the same approach as that for printed materials, DVD/CD, video games, etc.

The Government's proposal in 2015

61. Mr MA Fung-kwok asked the Administration whether the legislative amendments and administrative measures proposed in 2015 were being implemented. Mr CHAN Chun-ying asked what had prevented the proposals from being implemented over the past four years.

62. SCED said that in the light of the latest development, including the heated debate after OAT's classification of a set of translated Japanese novels as Class II article (i.e. indecent article) in July 2018, the proposals in 2015 might warrant a rethink in two aspects. First, there had been divergent views on the appropriate mix of people to undertake adjudicatory work. Second, the abolition of the administrative classification function of OAT would leave OAT to make judicial determinations only. SCED said that the Administration would welcome further views from members before proceeding further.

Way forward

63. In response to the Chairman's enquiry, SCED stated that while it could be relatively straightforward to implement some of the proposed legislative amendments and improvement measures, such amendments would unlikely guarantee that controversial cases would not arise in the future. As such, there were reservations on pursuing amendments which could not fully address members' diverse concerns. The Chairman concluded that, given the divergent views and various concerns raised by members, the Administration might need to further consult members' views on the subject.

VII. Any other business

64. There being no other business, the meeting ended at 12:46 pm.