



知識產權署

Intellectual Property Department

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Intellectual Property Department
The Government of the Hong Kong Special Administrative Region

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4 June 2020

Mr Anthony CHU
Chief Council Secretary (4)1
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

Dear Mr Chu,

Public Accounts Committee**Consideration of Chapter 5 of the Director of Audit's Report No. 74****Intellectual Property Department:
Registration and protection of intellectual property**

Thank you for your letter of 22 May 2020. Our responses to the questions raised are attached. The paper attached to Question (14) covers C&ED's enforcement actions taken against members of the No Fakes Pledge Scheme. I should be grateful if the circulation of the paper is restricted to PAC Members only.

Yours sincerely,

(Ms Emily Tsang)
for Director of Intellectual Property

Encl. (except encl. to Question (14))

c.c. Secretary for Financial Services and the Treasury
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**Public Accounts Committee
Consideration of Chapter 5 of the Director of Audit's Report No. 74
Intellectual Property Department:
Registration and protection of intellectual property**

Part 2: Registration of trade marks, patents and designs

Question (1)

According to paragraph 2.4, the number of outstanding trade mark applications increased by 29% from 5 270 in January 2018 to 6 775 in December 2019, and there was a significant increase of 67% in the number of outstanding applications from 6 494 in January 2019 to a peak of 10 860 in May 2019. According to paragraph 2.5, the percentage of trade marks that were registered within six months from the date of receipt of application decreased from about 73% in April 2018 to 7% in June 2019 and then picked up to 45% in December 2019. According to paragraphs 2.32(a) and (b), and 2.33, the Intellectual Property Department ("IPD") had agreed to take measures to reduce the backlog of outstanding trade mark applications and expedite the processing of trade mark applications. What measures had IPD taken? Had the backlog been reduced?

1. As set out in paragraph 2.18(d) of the Audit report, IPD has been making every effort to process trade mark applications as expeditiously as possible. Different enhancement measures have been implemented, including redeploying and reshuffling manpower to expedite the processing of cases at different stages, holding internal case discussion sessions to speed up the decision making process, and monitoring case outputs on a monthly basis to identify and relieve pressure points.
2. With such concerted efforts –
 - (a) the number of trade mark applications under processing was reduced from the peak of 10 860 in May 2019 to 5 916 by the end of January 2020 and further down to 4 204 by the end of April 2020, which is the lowest number of cases under processing in the past ten years; and

- (b) the percentage of trade marks as registered¹ within six months from the date of receipt of application picked up from 7% in June 2019 to 50% by the end of April 2020².
3. We will continue implementing suitable measures and make the best use of the new IT infrastructure to expedite the processing of trade mark applications in future.

Question (2)

In paragraph 2.6(a), IPD responded to Audit's enquiry that there was a significant increase of 67% in the number of outstanding applications from January to March 2019, and low percentage of trade marks registered within six months from the receipt of application for the period from March to June 2019. This was mainly due to the need for staff to adapt to the New Integrated Information Technology System ("NIS"). Please inform the Committee:

- (a) **when implementing NIS, did IPD keep the old system at the same time, so that during the improvement and debugging of NIS, the old system could still be used to handle backlog applications in time;**
4. During the development of the NIS, we have critically considered the possible role of the old systems, particularly the contingency arrangements following the commissioning of the NIS. After prudent review, we decided that the operation of the old systems should cease in early February 2019 to facilitate the NIS to commence operation in mid-February. The old systems were kept in standby mode for contingency purposes and could resume operation in case of severe system failure in the NIS. Technically speaking, it is not feasible to run the two systems in parallel because, among others -
- (a) given the substantial differences between the old systems and the NIS in terms of their respective user interface and process flows, allowing both systems to run concurrently would severely compromise the overall efficiency and productivity of examiners in processing the applications; and

¹ A trade mark application, upon passing the examination by the registry, has to be published for opposition, and can only be registered after it is unopposed upon lapse of the opposition period.

² The percentage has reached 51% by the end of January 2020. However, owing to the special work arrangements put in place due to the COVID-19 pandemic, we have extended the statutory deadlines for the opposition period in a number of cases, thus deferring the date of registration of the unopposed applications. Since late April 2020, the registry business, subject to the implementation of a number of social distancing measures, has largely resumed normal. Under such circumstances, we expect that all affected applications could be processed by mid-June 2020 and the percentage of six-month registration will improve soon afterwards.

- (b) one of the statutory functions of IPD is to maintain the registers of trade marks, patents and designs for the public to search and inspect free of charge. There are about 600 000 active records in these registers and they are subject to rigorous update every day. As such, it is technically very difficult to keep both the old systems and the NIS running concurrently while ensuring that the records in the two systems are identical.
- (b) **if yes, after NIS was launched and the backlog of outstanding application cases accumulated, did IPD immediately switch back to the old system to handle the outstanding cases; and**
- (c) **if the old system was not run concurrently, had IPD assessed whether this contributed to the backlog of application cases subsequently?**
5. The NIS was launched on 14 February 2019 in accordance with the implementation plan. Given the scale, sophistication and complexity of the project, it was not unexpected that software bugs surfaced during the initial implementation period. Intellectual Property (IP) examiners also need time to familiarise themselves with the new system and some system refinements during the early implementation period were required. As such, the time required to process new applications would inevitably be affected during the run-in period, but it was our assessment that such impacts were short-term and could be tackled robustly under the NIS. With our concerted, dedicated efforts, the NIS is now functioning well.
6. As explained in our responses under 2(a) above, it is not technically feasible to run the two systems in parallel.
- (d) **the average number of days required by each officer to handle a trade mark case and a patent registration case respectively during the launch of NIS;**
- (e) **the average number of days each officer needed to process trade mark and patent registration cases before and after the introduction of NIS;**
7. The processing time of each trade mark or patent application varies depending on, among others, the complexity of the case, the volume of application documents involved and the case handling capacity of the examiners at the time. It would be difficult to accurately calculate and compare the average processing time retrospectively under different systems. Nevertheless, based on some broad-brush assumptions, we have prepared a rough estimation as follows for reference purposes only -

Case type	Description of case processing	Rough estimate of average processing time per case	
		August 2018	August 2019
Trade marks	Deficiencies checking and search and examination for issuance of first response	103 minutes	91 minutes
Standard patents	Examination for according a date of filing and formality examination for request to record	23 minutes	20 minutes
Short-term patents	Examination for according a date of filing and formality examination	84 minutes	79 minutes

(f) in the course of adapting to NIS, did IPD formulate any arrangements and/or contingency measures to alleviate the impact of the adaption on the trade mark and patent registration process; and

8. IPD has formulated arrangements and contingency measures to reduce the impact of the switchover to the NIS well in advance. Such measures include -

(i) As explained in our response to question 2(a) above, the old systems were kept in standby mode so that they could resume operation in case of severe system failure in the NIS. Further, to ensure seamless transition from the old systems to the NIS, IPD suspended the electronic filing system for five working days in early February 2019 before launching the NIS;

(ii) various training sessions on the new layout and functions of the NIS were arranged for examiners from October 2018 onwards so as to enable them to get familiar with the new system in advance. Additional training sessions were organised in early February 2019 to ensure that examiners could master the new system functions once the NIS went live in mid-February 2019. After the NIS launch, IPD continued to deploy resources to provide coaching to examiners on system features and updates and also collected their feedback to facilitate ongoing system refinements and enhancements;

- (iii) IPD also organised training and briefing sessions for IP practitioners and filers before and after the NIS launch to enable them to better understand and adapt to the new technical features and functions of the new system. We also collected their feedback and, where appropriate, implemented system refinements and enhancements; and
 - (iv) IPD worked closely with the NIS contractor in order to jointly tackle and resolve all technical issues before and after the launch of the NIS. We will continue to work closely with the contractor throughout the maintenance period of the NIS, taking into account feedback received from the examiners and other external stakeholders.
- (g) after the completion of NIS, whether the performance indicators for measuring related applications had been amended accordingly.**
9. After the launch of the NIS, we have revised the performance target on “processing standard patent applications within ten days” from 86% to 95% in the 2020/21 Controlling Officer’s Report (“COR”). We will review other COR targets and indicators periodically, taking into account any new initiatives to be implemented as well as the overall manpower situation of the Registries.

Question (3)

According to paragraph 2.15, in the period from January 2018 to December 2019, the number of outstanding standard patent applications increased by 70% from 6 367 to 10 798, and the number of outstanding short-term patent applications increased by 56% from 260 to 406. According to paragraph 2.16, there was an increasing trend in the number of outstanding applications for standard patents since late 2018 and for short-term patents since early 2019. According to paragraphs 2.32(d) and 2.33, IPD had agreed to take measures to reduce the backlog of outstanding patent applications. What measures had IPD taken? Had the backlog been reduced?

10. IPD observes that the applications for standard patents and short-term patents has been on a rising trend in the past few years. As shown in Table 2 of the Audit report, the numbers of standard patent and short-term patent applications received in 2019 have increased by 35% and 13% respectively when compared to that in 2015.
11. In order to reduce the number of applications pending examination by the Patents Registry, IPD has deployed various enhancement measures such as redeploying and reshuffling manpower in the Patents Registry to expedite

the processing of outstanding applications. Legal officers were deployed to assist examiners in resolving difficult legal issues in the applications. An additional examiner has also been deployed from the Trade Marks Registry to the Patents Registry since mid-April 2020 to enhance the examination capacity of the Patents Registry.

12. With such concerted efforts, the number of outstanding applications for standard patent and short-term patent applications have been reduced from 10 798 and 406 in December 2019 to 10 041 and 326 respectively by the end of April 2020, despite the implementation of special work arrangements since end-January 2020 due to the COVID-19 pandemic.
13. To further enhance the examination capacity, IPD plans to engage three non-civil service contract (NCSC) examiners for one year.
14. IPD will closely monitor the resources requirements of the Patents Registry and continue to consider ways to enhance the examination capacity.

Question (4)

According to paragraph 2.22, as at 31 December 2019, there were 92 inter partes substantive hearings pending to be heard, and the average waiting time for the substantive hearings heard in the month was 11 months. According to paragraph 2.23, an internal assessment conducted by IPD in July 2018 also concluded that the average waiting time was considered quite long as compared to the performance of overseas IP agencies. Please inform this Committee:

- (a) the number of applications for trade mark that had been withdrawn during the waiting period and turned to other countries or regions with shorter waiting times for the past three financial years; and**
15. Trade mark rights are territorial, i.e. their owners must separately apply for registration in individual jurisdictions in order to obtain the exclusive right to use their trade marks in the concerned jurisdictions. As such, it is highly unlikely that trade mark owners would withdraw applications in Hong Kong and turn their applications to other jurisdictions owing to the time needed for resolving third party oppositions in Hong Kong.
- (b) had IPD assessed whether excessive waiting time would reduce the applicants' desire to apply for trade mark registration in Hong Kong? If yes, what were the practical methods or measures to reduce the waiting time and speed up the relevant procedures to attract more trade mark applicants to use local services; if not, would IPD evaluate the procedures immediately?**

16. As trade mark protection is territorial, the desire to apply for registration in Hong Kong is primarily determined by the attractiveness of Hong Kong as a market of the goods or services to which a trade mark is attached. Over the last decade from 2009 to 2019, the number of trade mark applications has grown by about 50% from 24 754 to 36 980. Empirically, the number of cases that attract opposition is very small. For example, in 2019, there were 354 new opposition cases.
17. The above said, we agree that proceedings in relation to the registration of trade marks should be determined expeditiously to reduce any uncertainty concerning the use or protection of trade marks and facilitate business planning. Details of the holistic approach IPD adopted to reduce waiting time for inter partes hearings are set out in the response to question 7 below.

Question (5)

According to paragraph 2.24, IPD "created a civil service Senior Solicitor post in the Hearings Team to replace the NCSC Senior Solicitor post to strengthen its hearings capacity". In this regard, please inform this Committee:

- (a) staffing establishment of the solicitors in the Hearings Team for each year in the past five years;**
18. In the past five years, the establishment of solicitors in the Hearings Team remained six, viz. 1 Assistant Director of IP, 2 Assistant Principal Solicitors, 2 Senior Solicitors and 1 Solicitor. One new Senior Solicitor post was added to the Hearings Team this year.
- (b) how was the hearings capacity be strengthened when a NCSC position was converted to a civil service post, and whether there were any changes in the job requirements; and**
19. Trade mark hearings demand high level of expertise and professionalism of the hearing officer. It takes a fairly long period to groom an officer to conduct hearings and hand down decisions confidently and independently. It is therefore important for IPD to retain a strong pool of experienced hearing officers with the required expert knowledge to handle challenging hearings competently and efficiently. Converting the short-term NCSC Senior Solicitor position to a civil service post will help enhance the capacity and capability of IPD's Hearings Team in the long run.
- (c) had the civil service post been filled? If yes, was it filled by the person previously in the NCSC position.**

20. The new civil service Senior Solicitor post has been filled by a civil servant, who is not the same person holding the previous NCSC position.

Question (6)

According to paragraph 2.31, IPD "introduced, with the support of Commerce and Economic Development Bureau (CEDB), preferential fee reduction for electronic filing of patent applications. However, as at 31 January 2020, similar preferential fee reduction had not been introduced for electronic filing of trade mark or design applications". IPD did not respond to audit recommendations on whether it would introduce preferential fee reduction. Please inform this Committee:

- (a) the reason why IPD had not yet implemented the preferential fee reduction even with CEDB's policy support;**
- (b) whether IPD had any plan to implement pay reduction arrangements and considerations of IPD in when it would implement fee reduction, say, when there was a sluggish growth of users using electronic applications.**

21. As set out in paragraph 2.18(a) of the Audit Report, from 2016-2019, IPD was heavily engaged in the development of the NIS to replace the old systems, bringing substantial workflow changes and thus impacting on the productivity and costs of the examination processes. After the commissioning and smooth operation of the NIS, IPD will further discuss with CEDB to consider the feasibility of introducing preferential fee reduction for electronic filing of trade mark and design applications.

22. In addition, as set out in paragraph 2.33(d) of the Audit Report, IPD will continue to explore feasible ways to further boost the rate of electronic filing for trade mark applications. In fact, IPD has been making every other effort to boost electronic filing. To illustrate, since the launch of the NIS with a host of user friendly features designed to encourage electronic filing, the rate of electronic filing of trade mark applications has increased by some 10% in a year's time (from 69% in 2018 to about 80% in the first three months of 2020).

Question (7)

In paragraph 2.33(c), IPD stated in its response to the audit recommendations that it was considering room for streamlining the hearing procedures. What was the progress of IPD's consideration so far? Were

there any specific plans to shorten the waiting time for hearings and issuing decisions?

23. Over the years, IPD has spared no effort to provide and better the hearing service in both quality and quantity.
24. On the provision of quality hearing service, the hearings are quasi-judicial in nature. In *inter partes* proceedings, we need to ensure fairness and impartiality throughout the process from pre-hearing to hearing, allow full representations by the opposing parties, and prepare reasoned decisions after hearings. Hearing decisions issued by IPD may be subject to appeal to the Court of First Instance of the High Court. On various occasions, the Court has expressly recognised the expertise of the Registrar in handling trade mark applications³.
25. IPD has been implementing measures to cope with the caseload and expedite the proceedings as far as possible. In fact, the waiting time for *inter partes* substantive hearings has been reduced from 16 months in 2013 to 11 months in 2019, and consistently met or exceeded our pledge of issuing decisions within six months.
26. To further increase our case output, IPD will –
 - (a) provide hearing officers with more systematic training and exposure to enhance their capacity in handling contentious trade mark registration matters. Regular meetings of hearing officers are held to facilitate experience sharing and align best practices to streamline the hearing procedures;
 - (b) pursue active case management on selected cases by conducting case management conferences to deal with procedural issues that parties to the proceedings are unable to reach a consensus. In the past few months, IPD has been giving directions on disposal of hearing matters by written submissions or conducting hearings by telephone, and we would explore other possible technological measures to streamline the hearing process; and
 - (c) consider proposals for amending the Trade Marks Rules to streamline the hearing procedures, including, compressing the time limits for the parties to file documents in proceedings, expediting the processing of cases which are not actively pursued by the parties to the proceedings,

³ See for example the Court of Appeal's remarks in *Re Creative Resources LLC* (CACV 15/2009) [2010] 1 HKLRD 382 at paragraph 17 (https://legalref.judiciary.hk/lrs/common/search/search_result_detail_frame.jsp?DIS=68920&QS=%28registrar%2Bof%2Btrade%2Bmarks%29&TP=JU).

directing parties to be more focused in presenting their cases. We have held focus group meetings with stakeholders to discuss these proposals. Subject to the passage of the Trade Marks (Amendment) Bill 2019 by the Legislative Council, we will need to make amendments to the Trade Marks Rules for enabling the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, and our plan is to incorporate the amendment proposals to streamline the hearing procedures in the same exercise.

Question (8)

According to paragraph 2.40, for the annual costing reviews for the Trade Marks Registry, Patents Registry and Designs Registry for price levels from 2015-2016 to 2019-2020, in some cases, IPD had not submitted costing statements to the Treasury for vetting and/or to the Financial Services and the Treasury Bureau, contrary to the Financial Circular requirements. Why did this happen? According to paragraph 2.45, IPD had said that IPD was planning to set up a business management unit underpinned by accounting professionals to handle fees and charges matters in a dedicated manner. Had the business management unit been set up? If not, when would it be set up?

27. As set out in paragraph 2.18(a) of the Audit Report, from 2016-2019, IPD was heavily engaged in the development of the NIS and made constant efforts to optimise the deployment of resources in handling both daily examination work and development matters. One important area in the NIS development was business process re-engineering in the examination of trade mark, patent and design applications to achieve productivity and efficiency gains. Significant resources were deployed from both IP case examiners and administrative staff overseeing fees and charges matters to the development of the NIS. As a result, IPD, while managed to maintain the case throughput during the period, could not prepare the cost statements strictly according to schedule.
28. IPD has included in the 2020-21 Budget the required resources to set up a business management unit underpinned by accounting professionals. We will establish this dedicated team as soon as possible after securing the required manpower.

Part 3: Promotion of IP protection

Question (9)

According to paragraph 3.2 and Figure 6, why did the "expenditure on publicity and educational activities" suddenly increase sharply in 2018-2019? How was the planning or format of the publicity work for that year different from the other years?

29. In March 2015 the Working Group on IP Trading released a report recommending the Government to take comprehensive measures in support of Hong Kong's development as an IP trading hub. In addition to IPD's own annual budget for general publicity and educational activities, a lump sum funding of \$23 million was set aside in CEDB's vote for IPD to roll out a series of new measures to promote IP trading for three years from 2015-16. After that the lump sum funding has been exhausted, a recurrent annual provision of \$5.4 million was added to IPD's budget from 2018-2019 onwards for continuing the IP trading promotion work such as offering free IP consultation service and organising manpower training programmes to small and medium sized enterprises.

Question (10)

According to paragraph 3.5, for the Survey on Public Awareness of IP Right Protection completed in 2018, of the 1 003 respondents interviewed, 74% were not aware that IPD was the Government department responsible for promoting the protection of IP rights in Hong Kong, 49% were not aware of the promotional activities of IPD and 36% considered that the promotional activities of IPD were quite/very ineffective.

- (a) **what measures had IPD taken to address the issues revealed by the results of the 2018 survey;**
30. Following the release of the 2018 survey results, IPD has implemented the following enhancement measures in 2019-2020 –
- (i) an "Observation Wheel Fun Day" was held to mark the 20th Anniversary of the "I Pledge" Campaign which is one of IPD's flagship public education programmes. Many participants, especially students and young people, joined the on-site STEM workshops;
 - (ii) the "Respect Copyright" campaign and the "Scout Fun Day" were organized in collaboration with IP right-holders and youth bodies for

students and young people to promote creativity and awareness of IP rights. Many participants joined creative competitions to demonstrate their innovative works; and

(iii) a series of publicity activities and outreach events were organised to promote the new original grant patent system launched by IPD in December 2019.

(b) according to paragraphs 3.11 and 3.12, IPD had agreed to step up efforts on promotion of public awareness of IP protection. What measures would IPD take to step up the efforts; and

31. To boost public awareness of IP protection, IPD will allocate more resources for promotional activities on social media and online platforms, including:

(i) promotional videos were released on online platforms (such as Facebook and different websites) featuring the World IP Day in April 2020;

(ii) a new Announcement of Public Interest (“API”) will be produced and released on both television and different online platforms to promote the “No Fakes Pledge” Scheme; and

(iii) an Inter-school Online IP Contest will be organised in the fourth quarter of 2020 to enhance students’ knowledge and awareness of IP.

32. Besides, it is IPD’s 30th anniversary of establishment in 2020, IPD will make use of the opportunity to promote public awareness on IPD’s roles and major developments.

(c) please explain why IPD believed that the awareness of the public on the protection of IP rights was related to IPD's continuous promotion efforts (paragraph 3.4), when many people did not understand IP well or had not heard of IPD's promotion work. On the other hand, was IPD too optimistic in evaluating its work?

33. IPD’s efforts in promoting public awareness of IP rights and protection started in 1997. To track the level of public awareness, attitude and behaviours towards IP protection and infringement, IPD started conducting the Public Awareness IP (PAIP) survey in 1999. The positive trend since 2006 as mentioned in paragraph 3.4 is the continuation of a

sustained upward trend of public awareness and respect for IP rights as indicated in the PAIP surveys. Notably, in 2018 –

- (i) Awareness: only 18.9% of the respondents does not have knowledge of IP rights, significantly down from 39.6% in 1999;
 - (ii) Attitude: a majority of respondents (78.1%) agreed that it was morally wrong to purchase pirated or counterfeit goods, steadily up from 56.4% in 1999, and
 - (iii) Behaviours: a majority of respondents (75.8%) indicated that they had not bought any pirated or counterfeit goods, significantly increased from 36.8% as in 1999.
34. The positive trend as reflected in the PAIP survey results suggests positive correlation with IPD’s promotional efforts since 1997.
35. But there is no room for complacency or over-optimism. We will continue to refine our publicity strategies and expend our publicity efforts following the approach set out in paragraph 3.12 of the Audit Report.

Question (11)

According to paragraph 3.7, IPD placed advertisements through different channels to promote IP protection. Nowadays, members of general public utilized social media, such as Facebook, Instagram, Twitter, and Youtube to receive new information. Would IPD consider adding relevant options in the Survey on Public Awareness of IP Right Protection conducted every two years to understand the public's acceptance of social media as a promotional channel, so that IPD would be able to adjust publicity and promotion strategies in a timely manner to enhance its effectiveness?

36. The summary set out in paragraph 3.7 of the Report was based on the information collected in the 2018 Survey. Respondents were asked an open-ended question on what they perceived to be the most effective channel for promoting IP protection. Answers given by respondents were grouped under the promotion channels set out in Table 14. Social media as a promotion option is subsumed under “emails and websites”.
37. In planning to hold the next survey later in 2020, we will consider how best to capture specific views on social media, taking into account the latest market trends. As set out in Table 15 of the Audit Report, between 2016-17 and 2018-19, we have already increased advertisement

expenditure on non-IPD websites by over 500%, and a large and increasing portion of the concerned expenditure was indeed spent on social media, online news websites and mobile applications.

Question (12)

According to paragraph 3.21, as at 11 February 2020, of the 1 225 retail merchants who were members of the No Fakes Pledge ("NFP") Scheme in 2019, 318 (26%) had not renewed their membership. According to paragraphs 3.33(c) and 3.34, IPD had agreed to expedite the membership renewal for the participating merchants and shops of the NFP Scheme. What measures had been taken in this regard? What was the latest position of the membership renewal of the NFP Scheme for 2020?

38. To expedite the membership renewal for the participating merchants and shops of the NFP Scheme, IPD will discuss with the issuing bodies in mid-2020 with a view to setting a due date for their members to submit renewal applications to ensure timely renewals.
39. Although the NFP Scheme has developed steadily in the last two decades, the recent economic downturn has had an adverse impact on the number of applications for renewal. Our records showed that as at 31 May 2020, 1 073 (87.6%) retail merchants who were members in 2019 have their membership renewed. For the 154 retail merchants who were members in 2019 but did not renew their membership in 2020, 21 had closed their businesses and 41 discontinued their membership with the issuing bodies, possibly a reflection of the economic toll.

Question (13)

According to paragraph 3.30, IPD had developed a mobile application named "No Fakes Pledge Shop Search" ("NFP App"). Please inform this Committee:

- (a) **the number of monthly active users of the NFP App in the past two years;**
- (b) **channels for promoting the NFP App;**
- (c) **indicators and measures to evaluate the effectiveness of the promotion efforts;**
- (d) **in view of incorrect information shown in the NFP App (paragraph 3.31 refers), would IPD take any measures to ensure the accuracy of the information; and**
- (e) **since the launch of the NFP App, had IPD collected comments from users to improve the inadequacies of the NFP App? If so, what were the details; if no, why not?**

40. Since the launch of the NFP App in 2013, the promotion of the NFP App has been integrated into the advertisements of the NFP through various channels including airport and immigration control points, public transport and the website of the Hong Kong Tourism Board. Since 2015, the QR code of the NFP App was also printed on tent cards and stickers distributed to the retail merchants. The NFP App was revamped in 2018 as the NFP Scheme has been extended to cover online shops in the same year. In the past two years (2018-19 and 2019-20), the number of monthly active users of the NFP App was 23 223, approximately 42% of the total number of downloads of the NFP App.
41. To ensure the accuracy of the information of the NFP App, IPD would exercise due diligence in checking and updating data input and collation and work closely with the contractor. We will continue to enhance the performance and user experience of the NFP App taking into account any feedback and comments received from the public and retail merchants.

Question (14)

According to paragraph 3.35, the Customs and Excise Department ("C&ED") and IPD conducted a review on the handling procedures in December 2019 to ensure information related to C&ED's raid operation against NFP Scheme members would be promptly provided to IPD. Please provide papers for the review showing how the notification mechanism between C&ED and IPD works and the improvements made after the review in respect of the information sharing mechanism. Had there been any delays in the information sharing since the review?

42. C&ED and IPD have duly reviewed the handling procedures, particularly on ways to enhance the notification procedures between the two Departments. The two Departments have prepared a revised brief (See **Annex**) setting out their respective roles and responsibilities under the NFP Scheme and agreed on a revised mechanism on informing IPD of C&ED's enforcement actions taken against members of the NFP Scheme.
43. Since the review, the revised notification mechanism has been working well and no other case of delay in sharing the information was noted. The two Departments will continue to work closely to ensure the revised mechanism works effectively.

***Note by Clerk, PAC: Annex not attached.**

Question (15)

According to paragraph 3.37, the number of new participating enterprises of the IP Manager Scheme decreased by 38% from 242 in 2017-2018 to 151 in 2018-2019. According to paragraph 3.40(b), in the period from 2015-2016 to 2018-2019, the attendance rate of training programmes under the Scheme decreased from 97.7% to 86.3%. What were the reasons for the decrease in the number of new participating enterprises and the attendance rate? According to paragraphs 3.43 and 3.44, IPD had agreed to boost the attractiveness of the IP Manager Scheme and the attendance rate of its training programme. What actions had been taken so far?

44. While it is difficult to ascertain the precise reason of the decreases, it is noted that the IP Manager Scheme has been running in its current format since 2015-2016. With the changing business environment, and taking into account the views of stakeholders and participants, IPD will enhance the Scheme to follow a more structured and comprehensive approach. We will add greater breadth and depth to the contents of the training programme to cater for the specific career needs of IP Managers with varied experiences and at different levels. We plan to roll out the enhanced Scheme in the fourth quarter of 2020.

Part 4: Administrative issues

Question (16)

According to paragraph 4.10, although IPD received only two tender proposals in the 2006 tender exercise for procurement of outsourced services, IPD did not conduct any market research or expression of interest exercise for the subsequent tender exercises because IPD assessed that the relevant services would be generally available in the market. What was the basis of the assessment? Was the assessment reviewed and approved by the senior management?

45. The scope of the outsourced services covered only non-core office support services of IPD, i.e. regular maintenance and support of information technology service in the office setting and general clerical work. Given the routine and general nature of the support services required, IPD was satisfied with their availability in the market. The assessment was discussed and agreed by the senior management before kicking off the tender exercises.
46. To better assess market interest in the supply of services required by IPD, we have sent a Request for Information to potential vendors prior to the issue of tenders for Information Technology projects in recent years.

We will continue to do so for future tender exercises wherever appropriate.

Question (17)

According to paragraph 4.13, 11 (55%) of the 20 Management Committee (MC) meetings and 11 (65%) of the 17 business review meetings during the contract period of Contract 5 were held longer than three months after the previous meetings, at variance with contract requirements. Why did this happen? Had IPD taken any actions to address the issue?

47. The contract provisions of Contract 5 specified that both MC meetings and business review meetings should be held at least once every three months during the entire duration of the contract. Accordingly, IPD strived to hold at least one MC meeting and one business review meeting during each of the quarters throughout the contract period. On the other hand, Audit Commission considered that the “once every three months” as specified in the concerned contract provisions is the maximum time gap between any two successive MC or business review meetings.
48. IPD, in administering Contract 6 which commenced on 1 December 2019, has been scheduling each of these meetings in accordance with the Audit recommendations. And in the drafting of future outsourcing contracts, if any, IPD will tighten the language to obviate any possible differences in interpretation in the requirement of meeting frequencies.

Question (18)

According to paragraph 4.21, three full-time NCSC staff had been continuously employed for over 10 years and the longest period of employment was 17 years. According to paragraph 4.25, IPD would continue phasing out the concerned NCSC positions, subject to operational needs and the successful bidding of civil service posts in future. However, according to paragraph 4.26, the Civil Service Bureau did not respond to whether it agreed with the creation of relevant civil service posts in IPD.

Did IPD have a timetable for phasing out the NCSC positions? If yes, what were the details of the timetable? If not, when would IPD draw up the timetable?

49. The three concerned full-time NCSC staff are deployed in the Marketing Division (MD) of IPD. They were employed to tap market expertise in promotion, event organisation and external engagement work. As promotion and public education efforts have to be sustained on an

ongoing and long-term basis, it has been our plan to phase out the NCSC staff gradually.

50. Following the recommendations made by Audit Commission, we have made arrangements for the exit of one of the above three staff members by the end of 2020. We will continue to train up civil service staff to take up the work of the remaining NCSC positions in MD and, subject to the availability of the required resources, phase out the remaining two NCSC staff in future.