

**Follow-up on Matters Raised at the Seventh Meeting of the
Bills Committee on Electronic Transactions Bill
Held on 26 November 1999**

Introduction

This paper addresses the issues raised by Members at the seventh meeting of the Bills Committee on Electronic Transactions Bill held on 26 November 1999.

Code of Practice

2. We note Members' views that it is important to consult the industry when the code of practice for recognised certification authorities is amended in future. It is also our intention to do so. Instead of setting out the consultation arrangements in the Bill, we shall make clear our intention when the second reading debate of the Bill resumes.

3. As regards the consultation procedure, the Information Technology Services Department will give notice to the public about the consultation through the media when the code of practice is to be amended and will put up the draft amendments in the department's homepage for public access. It will also send the draft amendments directly to the relevant parties in the industry for comment and will actively initiate discussions with them.

On-line

4. The word "on-line" has so far not been used in Hong Kong laws. We have also conducted research and have not been able to find precedent cases concerning judicial resolution on the meaning of the word. However, the word has now been commonly used and is a well understood expression in the context of electronic communication. There is also widely accepted definition about the word in authoritative literature such as " "Computer Contracts" Negotiating & Drafting ", " Electronic

Commerce – Law & Practice ”, “ Information Technology Dictionary ”*, etc. We, therefore, do not consider that there will be any misunderstanding about the meaning of the word.

Clause 41

5. We have further examined Clause 41 in the light of comments made by Members and have drawn reference to the secrecy provision in the Inland Revenue Ordinance (Cap. 112). We shall propose a Committee Stage Amendment to Clause 41(1) to the effect that, subject to Clause 41(2), a person who has access to any information, etc. in the course of performing a function under or for the purposes of the Bill shall not disclose **or permit or suffer to be disclosed** such information to any other person.

6. As regards the exception in Clause 41(2)(a) which now refers to “**which is necessary** for performing or assisting in the performance of a function under or for the purposes of this Ordinance”, we consider it tighter than the provision in the Inland Revenue Ordinance which refers to “Except in the performance of his duties under this Ordinance...” We, therefore, do not propose to make further changes to Clause 41(2).

7. However, we note Members’ concern and undertake to re-examine Clause 41 in the light of operational experience when we review the Bill 18 months after its enactment.

Information Technology and Broadcasting Bureau November 1999

* “Computer Contracts” Negotiating & Drafting, Robert P. Bigelow
Electronic Commerce – Law & Practice, Sweet & Maxwell
Information Technology Dictionary, C Disney