

**Response to Comments made by
The Hong Kong General Chamber of Commerce**

(a) Recognition of digital signatures or electronic signatures

- The primary aim of the Electronic Transactions Bill is to provide a certain and secure environment for the conduct of electronic transactions over open networks. Digital signature using PKI technology is currently the only form of electronic signature with a level of technical maturity that adequately meets the need for user authentication, integrity and confidentiality of data and non-repudiation of transactions. It is also by far the most common form of electronic signature being used in the market that is supported by open standards.
- In considering whether we should give recognition to all forms of electronic signatures, we should look at the practical implications. If the Government and others in the community have no commonly available means to accept and deal with electronic signatures other than digital signatures, any move to recognise other forms of electronic signature would be premature.
- As far as transactions with Government are concerned, such an approach would inevitably result in a need to qualify, by means of the mechanism provided in Clause 11 of the Electronic Transactions Bill, that only digital signatures would be recognised.
- The Electronic Transactions Bill is intended to provide a certain environment for the conduct of electronic transactions. Recognition of other forms of electronic signature which have not yet reached a level of technical maturity to satisfactorily address identified security issues relating to electronic transactions would lead to uncertainty. Security breaches of any kind due to immaturity of the technology would substantially undermine the confidence of the public in participating in electronic commerce. This would impede the

development of electronic commerce in Hong Kong.

- The adoption of digital signature is technologically neutral in the sense that digital signature is not based on particular types of algorithm products in the market. Moreover, it is up to the user to decide what level of security in respect of the digital certificate should be adopted to suit the intended purpose.
- Technological advances in electronic signature would be accommodated through suitable amendments to the Electronic Transactions Ordinance after its enactment. The concept of electronic signature is already written into the Electronic Transactions Bill as currently drafted. Legal recognition of new forms of electronic signature other than digital signature could be achieved, as and when appropriate, through an amendment to the Electronic Transactions Ordinance. The amendment involved is not envisaged to be complicated. We shall monitor closely developments in the area of electronic signature with a view to keeping our legal framework in step with technological advances in this area.

(b) Whether the proposed certification authority recognition scheme is too restrictive

- We do not agree that the proposed voluntary recognition scheme for certification authorities is too restrictive. Certification authorities which intend to provide certification services in Hong Kong are free to decide whether to obtain a recognition from Government. We shall not impose any limit on the number of certification authorities to be set up in Hong Kong. Other certification authorities are free to compete with the Hongkong Post.

(c) Power of the Secretary for Information Technology and Broadcasting to prescribe the manner and format of electronic record and cost of compliance

- The power of the Secretary for Information Technology and

Broadcasting to stipulate format and procedure is essential as it is not practical to assume that Government's systems can deal with all types of technology or software. Similar provisions exist in the Electronic Transactions Act of Singapore and the Electronic Transactions Bill of Australia. By stipulating the format and procedure in the first instance upon enactment of the Electronic Transactions Bill, parties which have to submit information to the Government electronically under various rules of law would have clear guidance to follow. This will enhance certainty and will help them to minimize the cost of compliance as resources would not be spent on wrong format and procedure which are unacceptable to Government systems. Furthermore, it is up to the individuals to decide the security level of digital certificate which should be used for the generation of digital signature for a particular transaction and thus the cost involved.

(d) Establishment of an independent committee to consider appeals against the decisions of the Director of Information Technology Services on recognition applications

- The decision of the Director of Information Technology Services in granting recognition under the Electronic Transactions Bill is subject to appeal. The decision on the appeal is also subject to judicial review. The interest of other certification authorities is thus well protected by the law. As such, an independent committee as proposed does not seem to be necessary.