

Checklist on the Cyberport project

In considering the financial arrangement and progress of the Cyberport project at the joint meeting of the Panel on Information Technology and Broadcasting and Panel on Planning, Lands and Works on 29 April 1999, members have expressed concern over a wide range of issues. The **main** deliberations of the Panels are summarized below for members' reference. The minutes of the meeting are being prepared and will be circulated to members once available.

(A) Whether the Administration had deviated from the established practices.

Members' concern	Administration's response
The granting of the development right for the Cyberport to Pacific Century Group (PCG) together with a provision to allow revenues from the ancillary residential development to drive the project was unprecedented and deviated from the established practices of awarding contracts through tendering.	There had been precedents in making use of property development to finance infrastructural projects. Given that a Cyberport would be an important element of the economic infrastructure and that spin-off benefits would be created for other economic sectors, it was considered appropriate to make use of property development to drive the Cyberport project
Awarding the contract to PCG was a clear case of favouritism.	The Administration disagreed with such an allegation. The Cyberport project would bring substantial economic contributions to the society as a whole. PCG would be making substantially lower profits than a normal property project.
Whether Government would consider granting the development right for the Cyberport project to other proponents at this stage.	(a) The success of the Cyberport project would depend very much on whether it would be able to secure the right mix of tenants and to attract leading information technology (IT) companies to set up operations in the territory which involve new applications of IT. In considering the prominent status of PCG in the IT industry and its ability to line up major IT companies to become anchor tenants of the Cyberport, it was believed that PCG would be a suitable candidate for the

Members' concern	Administration's response
	<p>project.</p> <p>(b) As regards the alternative proposal put forward by a group of companies through their lawyers, their primary interest was simply on the associated property development of the Cyberport project. Government had made clear that it would consider selling its deemed equity interest in the project to third parties.</p>
<p>Whether it was appropriate and fair for Government to directly take part in a real estate development project, bearing in mind Government was the primary land supplier in Hong Kong and could affect the price of property through various means.</p>	<p>Government's main objective was to develop the Cyberport. Revenue generated from ancillary property development was a side issue. In fact, revenue from the ancillary residential development was simply an instrument for financing. But in the negotiation process, Government needed to safeguard its own interest. Any revenue so generated would be ploughed back into General Revenue.</p>
<p>It seemed that there was a change to the land disposal policy as some 26 hectare of land had already been disposed of under the Cyberport project which had not gone through the tendering process. Further, the joint venture approach might also affect future land disposal programme as potential developer might prefer to approach the Government direct for bidding the development right for a particular project at favourable terms.</p>	<p>Noted</p>
<p>A policy or guideline should be drawn up to cover future joint venture projects to enhance transparency. Procedural arrangements and capital requirement should be specified.</p>	<p>Noted</p>
<p>Whether this kind of joint venture would become an adopted Government policy for future development projects.</p>	<p>The Administration would consider each case on its own merits.</p>
<p>Whether PCG would eventually monopolize the entire market if similar</p>	<p>The Government maintained an open mind on other IT projects put forward by</p>

Members' concern	Administration's response
development rights were granted to the company on account of its leading status in the IT/information services (IS) industry.	potential proponents. They would consider each case on its own. As regards the Cyberport, it would be constructed by PCG and handed to Government. As such, there was no case of a monopoly.

(B) The decision making process and consultation with the industry

Members' concern	Administration's response
<p>The decision process seemed to be deviated from the established principles which might give rise to concern about perceived unfairness and cronyism, particularly when it was reported that the head of PCG had successfully pursued the Chief Executive (CE) to accept his idea during a tour to Israel</p>	<p>(a) The idea of the Cyberport was presented to Government by PCG in mid 1998. Having examined the case in detail, the Government engaged Arthur Andersen Business Consulting (AABC) in November 1998 to conduct a strategic assessment on the concept of a Cyberport in Hong Kong and the possible economic benefits to be brought about by such a project. The findings were presented to Government in December 1998. The Administration accepted that the project would produce economic benefits to Hong Kong and proceeded with intensive negotiations with PCG. In parallel, a second phase of the study was conducted by AABC to sound out potential users on the design and specifications proposed by PCG and their degree of interest in becoming tenants.</p> <p>(b) The allegation that the decision was made after a tour between CE and the head of PCG to Israel was unfounded as the Administration, back in December 1998, had already accepted in principle the idea of the Cyberport project.</p>
<p>Whether Government was under any pressure to grant the development right for the Cyberport to PCG as a result of the allegation made by a major property developer in Hong Kong in late 1998 about the change of political environment in Hong Kong and his intention to withdraw a major investment in Hong Kong.</p>	<p>Statement of individual's investment preference had not been taken into consideration in the course of the decision.</p>
<p>Noting that PCG was selected because of its ability to line up a number of major IT/IS companies in the world to become anchor tenants of the Cyberport, a member queried whether</p>	<p>Because of the efforts of PCG, eight major IT companies had already indicated that they would be anchor tenants of the Cyberport. It was not a straight forward task to convince these companies to</p>

Members' concern	Administration's response
<p>the Government had made an effort to do the same before awarding the development right for the Cyberport to PCG.</p>	<p>realign their business plans and strategies to suit the development of the Cyberport. PCG's marketing and their own network had been instrumental in achieving this.</p> <p>On the other hand, PCG was selected having regard to a number of factors and the decision was not simply based on a single factor (i.e. its ability to line up major IT firms to become anchor tenants of the Cyberport).</p>
<p>The requirement of PCG's contribution to solicit anchor tenants of the Cyberport should be clearly reflected in the agreement.</p>	<p>Noted</p>
<p>The consultation exercise conducted by the Administration was misleading as participants were not informed of the Administration's intention to allow developers to finance the Cyberport project through revenues from the ancillary property development.</p>	<p>(a) The Government had engaged a consultancy to approach potential Cyberport users and seek their views on the features and characteristics of the proposed Cyberport and their level of interests in becoming tenants and co-developers of the Cyberport.</p> <p>(b) Participating firms were free to express their views on the project and no fixed agenda had been set for the purpose. In fact, revenue from the ancillary property development was simply a form of financing and the main theme of the consultation was to solicit views from the industry on how to make the Cyberport project a success. However, in general, there was very little interest expressed.</p>
<p>Whether AABC was relying on submissions put forward by PCG for conducting the study and whether an independent assessment could be made as a result.</p>	<p>To facilitate the strategic assessment of developing a Cyberport in Hong Kong, case studies had been performed by AABC in November and December 1998 to obtain insights from the experience of similar developments in other countries. Subsequently, a second phase of the study was conducted by AABC in December 1998 to sound out potential users on the design and specifications proposed by PCG and their degree of interest in</p>

Members' concern	Administration's response
	becoming tenants. Given the substantial number of IT/IS companies in the industry, it was necessary to identify potential Cyberport users for consultation purpose. Comments received during interviews had been used as a basis to facilitate negotiation with PCG.
Noting that one of the members of the Executive Council was a senior partner of AABC, a member queried whether the Member concerned was required to abstain from discussion and voting on the Cyberport development.	The Administration could not disclose the proceedings of the Executive Council. (Post meeting note : The Chairman has written to the Director of Administration on 3 May 1999 to ask for the related information)
Whether it was unusual for the Administration to come up with a decision on major development of this scale within a few months' time.	The decision processes had been clearly set out in the paper. The prompt actions taken by the Administration could be seen as a sign of efficiency.
Whether Government had imposed pressure on Town Planning Board and the Advisory Council on the Environment to endorse the Cyberport project.	Submissions to the Town Planning Board and the Advisory Council on the Environment were in line with the normal procedures and no pressure was exerted by Government on these bodies in vetting the related submissions.

(C) Construction of the Cyberport and proposed mode of operation

Members' concern	Administration's response
Positioning of the Cyberport	The target was to develop Hong Kong into a centre for content creation.
Measures to increase the potential for success	The Administration would liaise closely with the anchor tenants and other companies which had expressed interest in becoming tenants at the Cyberport. Detailed specifications were being drawn up and anchor tenants and interested companies would be consulted to ensure that the Cyberport met their requirements. So far, 34 companies had registered interest in becoming tenants, in addition to the eight anchor tenants.
Rental for tenants of the Cyberport	The rates would be drawn up with reference to similar facilities in other regions.
What were the estimates of the construction cost for the project	The Administration to provide a breakdown of the construction cost for the project
Would there be any penalty provisions to cover possible slippage of the project	(a) PGC would bear the rental loss so resulted. (b) As a major tenant of the Cyberport, PCG would also suffer from the slippage as they could not launch their own business plans on time.
Justifications for entrusting the construction of the essential infrastructure works to PCG and whether the proposed estimates were cost-effective.	Because of programming considerations, it was an established practice to entrust the related infrastructure works to the concerned developer. Previous examples were found in the cases of the construction of Container Terminal 9 and River Trade Terminal in Tuen Mun. The Administration would provide further details in this regard.
Concern about environmental impacts associated with the development.	The Administration had completed an Environmental Impact Assessment (EIA) for developments in Telegraph Bay. The EIA report was approved under the EIA Ordinance in April 1999. Upon gazettal of the project, affected parties could still

Members' concern	Administration's response
	lodge their objections to the Town Planning Board.
The development of the Cyberport should form part of the Government's overall IT strategy. It required proper alignment with the development of other elements in the broader economic and industry infrastructure. The Administration should therefore provide assistance to the industry at all fronts. Further, in order to ensure an adequate supply of land and infrastructure to support the Cyberport, the Administration should continue to provide the necessary infrastructural support at Science Park and industrial estates.	The Cyberport would be designed as a flagship project to put Hong Kong firmly on the global IT/IS map. It aimed to create a strategic cluster of leading IT and IS companies and a critical mass of professional talents in Hong Kong in the shortest possible time. The Information Technology and Broadcasting Bureau had a strategy on how to promote the use of IT in Hong Kong and would co-ordinate with the Trade and Industry Bureau in taking forward the Cyberport and the Science Park.
The Administration to consider disclosing the full report commissioned by AABC	Noted (under consideration)
The Administration to consider disclosing the agreement with PCG	Noted (under consideration)

Legislative Council Secretariat
4 May 1999