立法會
Legislative Council

LC Paper No. CB(1)1818/06-07
(These minutes have been seen
by the Administration)

Ref : CB1/PL/ITB/1

Panel on Information Technology and Broadcasting

Minutes of meeting
held on Tuesday, 17 April 2007, at 10:45 am
in the Chamber of the Legislative Council Building

Members present	:	Hon Albert Jinghan CHENG (Chairman) Hon SIN Chung-kai, JP (Deputy Chairman) Hon Howard YOUNG, SBS, JP Hon Emily LAU Wai-hing, JP Hon Albert CHAN Wai-yip Hon Ronny TONG Ka-wah, SC
Member attending	:	Hon CHAN Yuen-han, JP
Members absent	:	Hon Fred LI Wah-ming, JP Dr Hon LUI Ming-wah, SBS, JP Hon Jasper TSANG Yok-sing, GBS, JP Hon Timothy FOK Tsun-ting, GBS, JP
Public officers attending	:	Agenda Item IV Mr Francis HO, JP Permanent Secretary for Commerce, Industry and Technology (Communications and Technology) Mr Kevin CHOI Principal Assistant Secretary for Commerce, Industry and Technology (Communications and Technology) A

Ms Lorna WONG
Commissioner for Television and Entertainment Licensing

Miss Angela LUK
Assistant Commissioner for Television and Entertainment Licensing (Entertainment)

Agenda Item V

Mr Stephen MAK, JP
Deputy Government Chief Information Officer (Operation)

Mr Alfred NG
Assistant Government Chief Information Officer (Technology Management, Sourcing and Facilities Management)

Agenda Item VI

Mrs Marion LAI, JP
Deputy Secretary for Commerce, Industry & Technology (Communications and Technology)

Mr Y K HA
Deputy Director-General of Telecommunications

Attendance by invitation :

Agenda Item IV

Hong Kong Film Directors' Guild

Mr Gordon CHAN
President

Mr CHEUNG Tung-joe
Honorary Permanent President

Federation of Hong Kong Filmmakers

Mr NG See-yuen
Chairman

<u>Hong Kong Performing Artistes Guild</u>

Mr John SHAM
Vice President

<u>Hong Kong Movie Production Executives Association</u>

Mr Sunny CHENG Shu-sun
Chairman

Mr CHAN Shu-chi
Committee Member

<u>Hong Kong Chamber of Films Ltd</u>

Mr Patrick TONG
Member Organization

Mr John CHONG
Member Organization

<u>Movie Producers & Distributors Association of Hong Kong Ltd</u>

Mr Tony SHU Tat-ming
Committee/Executive Secretary

<u>Hong Kong Screen Writers' Guild</u>

Mr CHEUNG Chi-shing
Director

<u>The Lion Rock Institute</u>

Mr Andrew SHUEN Pak-man
Research Director

Mr Peter WONG
Deputy Executive Director

<u>Individual</u>

Mr David M WEBB
Editor, Webb-site.com

Clerk in attendance : Miss Erin TSANG
Chief Council Secretary (1)3

Staff in attendance : Ms Elyssa WONG
Deputy Head (Research and Library Services)

Ms Annette LAM
Senior Council Secretary (1)3

Ms Vicky LEE
Research Officer 3

Ms Guy YIP
Council Secretary (1)1

Ms May LEUNG
Legislative Assistant (1)6

Action

I. Confirmation of minutes of meeting

(LC Paper No. CB(1)1297/06-07 -- Minutes of meeting held on 6 February 2007)

The minutes of the meeting held on 6 February 2007 were confirmed.

II. Information paper issued since last meeting

(LC Paper No. CB(1)1174/06-07(01) -- Information paper on 2006 Surveys on Information Technology Usage and Penetration in the Household and Business Sectors)

2. Members noted the above paper issued since the last meeting.

III. Date of next meeting and items for discussion

(LC Paper No. CB(1)1298/06-07(01) -- List of outstanding items for discussion

LC Paper No. CB(1)1298/06-07(02) -- List of follow-up actions)

3. Members noted that the following items were proposed by the Administration for discussion at the next Panel meeting to be held on 14 May 2007:

(a) Report on project governance and results; and

(b) Subsidiary legislation to be made under the Unsolicited Electronic Messages Ordinance.

4. The Chairman drew members' attention to the Administration's proposal to defer discussion on the item of "Public consultation document on Digital 21 Strategy" originally scheduled for discussion on 5 June 2007. According to the Administration, the findings of the focus group study for identifying the major barriers to information and communications technology (ICT) adoption in various underprivileged groups (including children of low-income families, the elderly, new arrivals, homemakers, single parents and disabled people) would not be available until June 2007. As such, the Administration planned to report to the Panel the findings and recommendations arising from the study, as well as other updated progress relating to the Digital 21 Strategy at the meeting to be held on 9 July 2007. Members agreed.

5. Referring to item 18 of the Panel's "List of outstanding items for discussion" regarding the proposed acquisition of the shares of the Asia Television Limited (ATV) by Citi Guoan Group last discussed on 5 June 2006 when the Broadcasting Authority was requested to revert to the Panel before making a final decision on approval or otherwise of the proposed acquisition, Ms Emily LAU remarked that according to media coverage, ATV had recently agreed to sell a 58% stake to Mingly Corporation. As such, Ms LAU suggested and other members agreed that the Administration be requested to brief the Panel on the latest development of the issue at the next meeting to be held on 14 May 2007.

IV. Support measures for the film industry

(LC Paper No. CB(1)1298/06-07(03) -- Paper provided by the Administration)

6. The Chairman welcomed representatives of the Administration and deputations to the meeting. He said that he would invite the Administration to brief the meeting on the package of Government's support measures for the film industry, including a staffing proposal for the creation of a permanent Secretary-General (SG) of the new Hong Kong Film Development Council (FDC) post in the Television and Entertainment Licensing Authority (TELA) to enhance the secretariat support for FDC, as well as a financial proposal to increase the commitment by $300 million for Item 480 Film Development Fund (FDF) under Head 180 TELA Subhead 700 General non-recurrent. The Administration would seek the Establishment Subcommittee's endorsement on the proposed creation of the permanent SG/FDC post at the meeting to be held on 16 May 2007, and the Finance Committee's approval on the staffing proposal as well as the proposed increase in commitment of $300 million for the FDF at the meeting scheduled for 8 June 2007.

Briefing by the Administration

7. At the invitation of the Chairman, the Commissioner for Television and Entertainment Licensing (CTEL) briefed members on the abovementioned proposals. She said that the Government had all along attached importance to the film industry and noted that with a shrinking film market and decreasing number of local productions, in particular small-to-medium budget film productions, the film industry was facing a very difficult time, plagued with talent drought and related problems. The package of Government's support measures for the film industry was highlighted below:

(a) The establishment of the Hong Kong Film Development Council (FDC)

Having taken into consideration the recommendations made in the report on the film industry's development strategy as commissioned by the Film Development Committee, the Chief Executive had, in his Policy Address delivered in October 2006, announced to strengthen the Government's support for the film industry. In March 2007, the Financial Secretary (FS) announced in his 2007-08 Budget that $300 million would be earmarked to help finance film productions and overcome the shortage of talents. As one of the initiatives, the existing Film Development Committee would be expanded to form a high-level consultative body of FDC which would be entrusted with broader and more onerous film-related advisory and executive duties. FDC would also be responsible for advising the Secretary for Commerce, Industry and Technology (SCIT) on the policy, strategy and institutional arrangement for the promotion and development of the film industry, as well as the use of public funds to support the industry. On 14 April 2007, the establishment of the FDC, together with the appointment of 16 non-official members for a term from 15 April 2007 to 31 March 2009, were announced.

(b) Proposed increase in commitment to finance film productions

In recent years, the film industry had been suffering low output in film productions, particularly small-to-medium budget film productions. This had seriously depleted talents in the industry, from screenwriters to directors. The $300 million earmarked by the FS in the 2007-08 Budget would be injected into the existing FDF the ambit of which would be expanded to finance film productions with a budget not exceeding $12 million. The FDF would also contribute up to 30% of the production budget, i.e. a maximum of $3.6 million per film. A set of criteria had been proposed and were set out in Annex A of the Administration's paper (LC Paper No. CB(1)1298/06-07(03)). The broad parameters were that only small-to-medium budget productions employing certain number of Hong Kong talents should be funded, and the proposed film project should be up to a standard for commercial theatrical release. There would also be some commercial assessment such as the soundness and experience of the applicant and reasonableness of the proposed budget, etc. A Vetting Committee would be set up under the FDC which would be assisted by experts drawn from a Panel of Examiners, who were professionals with experience in film production, financing etc. to provide views on funding applications for the consideration of the Vetting Committee. Terms and conditions would be specified in the form of undertakings duly signed by successful applicants before the release of first installment of funds. The undertakings would set out clearly the relationship between the successful applicant, the third-party financier(s) and the Government, as well as their respective obligations and liabilities. Successful applicants were required to submit reports and audited accounts upon completion of their projects to the Secretariat of the FDC for monitoring and vetting purposes. When the FDF contributed to a film production, the Government would require cost recouping and profit sharing on the film commensurate with the Government's share of contribution in relation to other equity investors on a pari passu, pro rata basis. A review of the FDF would be conducted two years after implementation.

(c) Proposed creation of a permanent SG/FDC post

It was proposed that a new permanent D2 post, designated as SG/FDC, would be created to underpin CTEL in supporting the FDC. CTEL stressed that given the enhanced scope and workload of FDC to, inter alia, assist in administering a much-expanded FDF, a dedicated full-time D2 post was required to support FDC's work. TELA had critically reviewed the current directorate establishment, and considered that there was no scope for redeployment of existing resources to provide the necessary support to the new FDC, and hence the need for creating a new post.

(d) Film Guarantee Fund (FGF)

The FGF was first established in 2003 which aimed to facilitate film production companies' access to film financing through the provision of a loan guarantee by the Government. Given the difference in the nature of the FGF and the FDF, the Government considered it appropriate to retain the FGF for the time being so as to sustain the Government's assistance in developing the local film financing infrastructure. FDC would be invited to conduct a comprehensive review of the long-term need of the FGF in due course.

Presentation by deputations

8. The Chairman said that written submissions from deputations received before the meeting had been circulated to members and uploaded onto the Legislative Council (LegCo)'s website for public perusal. He requested the deputations to provide their written submissions, if they had not done so, or supplementary submissions, if any, to the Panel after the meeting. He also reminded the deputations that when addressing the Panel at the meeting, they were not covered by the protection and immunity under the Legislative Council (Powers and Privileges) Ordinance (Cap. 382), and their written submissions were also not covered by the said Ordinance.

9. Members noted that a written submission had been provided by Film Development Fund Concern Group, Museum of Site, a deputation not attending the meeting (LC Paper No. CB(1)1298/06-07(06)).

Hong Kong Film Directors' Guild (HKFDG)
(LC Paper No. CB(1)1298/06-07(04) -- Submission (*Chinese version only*))

10. Noting the package of Government's support measures for the film industry, Mr Gordon CHAN, President of HKFDG, put forward the following views in addition to the submission made by HKFDG:

(a) On the operation of the FDF, he opined that the Government should make reference to overseas film investment funds (e.g. those operated in the United States), and should place more emphasis on the investment returns. It was hoped that the $300 million Government injection would help encourage more banking and financial institutions to enter into the business of film financing. He stressed that the FDF was not an emergency relief fund, and it was hoped that the film industry could re-gain its vitality without depleting the $300 million seed money nor requiring further public financial outlay.

(b) On the assessment criteria for financing film productions which involved, inter alia, the vetting of the content of scripts such that applications involving scripts which were likely to result in films that portray disproportionately sexuality and violence, etc would not normally be considered, he emphasized that content censorship should be avoided. Instead, assessment of applications should be made on the basis of the viability of the proposal, not the content of the scripts. Nevertheless, to ensure compliance with the relevant statute, i.e. the Film Censorship Ordinance (FCO) (Cap. 392), suitable editing could be made before theatrical release to suit the targeted markets. In this connection, he added that releasing different editions of a film to suit different markets was actually a common practice adopted by the film industry. For example, the movie "Jan Dara" was a Hong Kong-Thailand joint production which was suitably edited to comply with the provisions of the FCO before theatrical release in Hong Kong.

11. Mr CHEUNG Tung-joe, Honorary Permanent President of HKFDG, also expressed concern about the eligibility and assessment criteria proposed by the Administration in Annex A of the Administration's paper. He remarked that further deliberation on those criteria should be made by FDC.

Federation of Hong Kong Filmmakers (FHKF)
(LC Paper No. CB(1)1351/06-07(01) -- Joint submission from nine member organizations (Chinese version only))

12. Mr NG See-yuen, Chairman of FHKF, expressed his deep feelings about the local film industry which, without any Government support, had flourished in the past and enjoyed high reputation among Asian countries as well as worldwide. However, with the advent of technology which was a double-edge sword (i.e. on the one hand, it made possible new ways to produce films, but on the other, it had brought about adverse impacts to the film industry such as the availability of more entertainment activities and exploitation of the industry's interests due to pirated activities), the local film industry could no longer compete with its mega competitors in Hollywood without the necessary support from the Government. He opined that the shrinkage of the local film industry was particularly remarkable in the past decade as evidenced by a substantial drop in the number of film productions as well as the box office revenues. He then put forward FHKF's views as follows:

(a) In overseas jurisdictions, such as the United Kingdom (UK), France, Korea, Japan, Taiwan and Singapore, there were government policies to assist film industry to help promote their countries to the rest of the world. To help revive the local film industry, FHKF held that the FDF should be used to support small-to-medium budget film productions as well as for nurturing a critical mass of casts and crew. Mr NG remarked in particular that Hong Kong's small-to-medium budget films produced in the past had created super-stars such as Mr Jackie CHAN and Mr Andy LAU, who cast in "Drunken Master" and "The Unwritten Law" respectively, as well as famous directors such as Mr TSUI Hark.

(b) The problem of talent drought in the film industry should also be addressed in view of the loss of talents to overseas and Mainland jobs in recent years due to the significant reduction of local film productions. Although it was possible to produce films in the Mainland under the Mainland/Hong Kong Closer Economic Partnership Arrangement, he opined that the different censorship yardsticks adopted by the Mainland would restrain the production of some film genres and therefore was not conducive to the healthy development of this creative industry. The injection of $300 million into the FDF would produce a synergy with the Government's other initiatives to promote Hong Kong by the Tourism Commission (TC) and the Hong Kong Trade Development Council (HKTDC).

He called on members' support for the Administration's funding proposal. He also stressed that the film industry would make prudent use of the FDF and would strive to plough the financial resources back to the society.

Hong Kong Performing Artistes Guild (HKPAG)

13. Mr John SHAM, Vice President of HKPAG, said that HKPAG was supportive of the Government's funding proposal. He then highlighted HKPAG's views as follows:

(a) The show business had from time to time received invitations from various Government departments and statutory bodies to send performing artists to take part in their promotional activities which aimed to promote Hong Kong. All along, film-related activities straddled across TC, HKTDC, Hong Kong Arts Development Council, Film Services Office of TELA, etc. HKPAG had therefore long been urging for a dedicated body to centralize and co-ordinate the relevant work. The Administration's current proposals to set up the FDC as a consultative body and to create a permanent D2 post for enhancing the secretariat support for FDC were welcomed by HKPAG. In future, consideration should also be given to transforming the FDC into a standing executive mechanism so as to provide continued support to the film industry.

(b) FDC should aim at, inter alia, promoting the local film productions to other markets. By way of illustration, he said that the Consulate General of France would provide subsidies to investors who imported French movies for distribution in their respective local markets. As regards Hong Kong, he pointed out that box office revenues in the past had mainly been generated from the Taiwan market which accounted for about 40-50% of the revenues of a film project. In recent years, box office revenues generated from the Mainland market had been on the rise. As such, FDC should devise measures to help promote the local film productions to the Mainland market in a structured and systematic manner.

Summing up, Mr SHAM urged members to support the Administration's funding and staffing proposals. While disagreeing with the view that the Government was offering preferential treatment to the film industry, he remarked that the revival of the film industry would contribute to the continual success of Hong Kong.

Hong Kong Movie Production Executives Association (HKMPEA)

14. Mr CHAN Shu-chi, Committee Member of HKMPEA, stressed the importance of nurturing talents and hence recommended that provision be set aside within the $300 million commitment for promoting the training of film professionals. He elaborated that in the 1980's, the film industry had provided ample opportunities for many directors and performing artists to showcase their talents. Regrettably, the local film productions had dropped substantially from its peak of a production volume of over 300 films a year during the early 1990's to about 60 films in 2006. He considered that the Government's proposed financial and infrastructural support would be conducive to reviving Hong Kong's film industry. In this connection, he referred to his previous experience in assisting FHKF and the Vocational Training Council to provide film-related training, and opined that although the training was well received by participants, there was no formal recognition of the training. As such, he was of the view that while the Government was prepared to invest on nurturing film talents, consideration should be given to providing formal recognition of film-related training so as to promote social acceptance.

Hong Kong Chamber of Films Ltd (HKCFL)

15. Mr Patrick TONG, representative of Member Organization of HKCFL, put forward the following views from HKCFL:

(a) It was worth noting that post-production costs accounted for a considerable percentage of the investment in a film project. For example, the post-production costs in respect of promotional activities and making of copies of a small budget film with a project sum of $5 million would normally exceed $1 million. To help reduce the financial burden of investors, especially those investing in small-to-medium budget productions, the funding support to be provided under the FDF should not only cover film production costs but also post-production ones.

(b) In view of the rampant pirated activities on the Internet and etc, consideration should be given to allocating funds from the FDF to enhance copyright protection and public education on intellectual property (IP). An increased public awareness of IP protection would bring about benefits to all sectors of the creative industries, including the film industry.

Movie Producers & Distributors Association of Hong Kong Ltd (MPDAHK)
(LC Paper No. CB(1)1365/06-07(01) -- Submission (Chinese version only))

16. Mr Tony SHU Tat-ming, Committee/Executive Secretary of MPDAHK, said that member organizations of MPDAHK welcomed the Administration's initiative to provide a range of measures to support the film industry and urged LegCo Members to approve the relevant funding proposals swiftly. He said that

other than its preliminary views as stated in its written submission to the Panel, MPDAHK would also schedule a meeting to discuss in detail the support measures to be adopted by the Government in assisting the local film industry, such as the proposal to re-structure TELA, etc. In this connection, he echoed the views of Mr Gordon CHAN of HKFDG that a light-handed approach, if any, should be adopted in the vetting of script content so as to foster a healthy environment for the creative film industry, and that reference could be made to the existing censorship yardsticks, such as those provided under the FCO, in devising the assessment mechanism of the FDF.

Hong Kong Screen Writers' Guild (HKSWG)
(LC Paper No. CB(1)1394/06-07(01) -- Submission (Chinese version only))
(tabled at the meeting and subsequently issued on 18 April 2007)

17. Mr CHEUNG Chi-shing, Director of HKSWG, stated full support for the Government's preparedness to allocate resources to the FDF to help revive the film industry. HKSWG aspired that the $300 million injection would help foster a healthy development of the local film industry. In this connection, HKSWG considered that script development was a fundamental duty to be fulfilled by film investors, who should be held responsible for settling script fees. To avoid investors' over-reliance on Government assistance and hence possible abuse of the FDF, HKSWG suggested that all applications for funding support should be submitted together with filmable full scripts with written confirmation from the script writers concerned acknowledging receipt of the script fees. HKSWG was of the view that to revitalize Hong Kong's film industry, apart from Government support, industry players should also strive for self improvement, such as making reasonable investment in script development.

The Lion Rock Institute (LRI)
(LC Paper No. CB(1)1365/06-07(02) -- Submission (English version only))

18. Mr Andrew SHUEN Pak-man, Research Director of LRI, said that LRI objected and hence also urged members not to give their support to the Administration's funding proposals. He then highlighted LRI's views as follows:

(a) The funds set up by the Government to support various industries, such as the Innovation and Technology Fund, had failed to yield reasonable investment returns. The FDF would become another failure. Furthermore, as the film industry was basically profit-driven, LRI considered it unfair to use taxpayers' money to subsidize this industry.

(b) The proposed script assessment criteria should be strictly applied to prevent the use of public money to fund films that sought to glorify indecent behaviour, such as racial discrimination and denigration of religious beliefs, etc. LRI was of the view that the Government seemed to be shifting its responsibility by setting up a Vetting Committee under the FDC so as to evade public criticism in case indecent behaviour was glorified in films funded by the FDF.

(c) Instead of watching movies which normally lasted for 90 to 120 minutes, the younger generation nowadays preferred newly emerged entertainment modes such as karaoke, on-line games and video clippings etc. The absence of a market to support the sustainable growth of the film industry would create the problem of manpower mismatch in future. As such, LRI strongly opposed to the funding proposal as it would be used for nurturing creative talents for an industry (i.e. the local film industry in question) which no longer had a market.

19. In response to the Chairman's enquiry, Mr Andrew SHUEN Pak-man clarified that LRI had no strong views on the criteria to be adopted for assessing applications made under the FDF (i.e. how script content should be vetted), as well as whether the FDF should fund movies which lasted for 90-120 minutes or shorter, so long as the criteria were generally accepted by the public and LegCo Members. Nonetheless, he reiterated LRI's stance that the Government should not invest resources for training of creative talents to work in an industry that was no longer supported by the market.

20. Mr Peter WONG, Deputy Executive Director of LRI, referred to LRI's submission and added that:

(a) Recognizing the vital role that market signals played in indicating productive use of capital, LRI expressed grave concern on the current government proposal of using taxpayers' money to subsidize the film industry which was both immoral and inefficient, and would also be harmful to creative talents whom this very proposal was designed to assist. LRI considered that if taxpayers chose to support the film industry, they would do so by paying to see the movies in the theatre or buying Digital Versatile Discs (DVDs).

(b) The Government's proposal relied on a vague idea that the film industry had 'spin-off' benefits that were not quantified. Overseas experience revealed that public funding had to be injected continuously to sustain their film industry. The same phenomenon could be seen in Hong Kong with the FDF and the FGF introduced in 1999 and 2003 respectively and at present, a further commitment of $300 million was proposed. LRI held strongly that the Government should not use taxpayers' money to encourage people and companies to pursue an uncompetitive business, and such a proposal, if endorsed, would only encourage the building up of a culture of dependency. Mr WONG stressed that the decline of movies was not unique in Hong Kong as the film industry in Korea and the UK, for instance, also could not revive despite continual support rendered by their governments.

Mr David M WEBB
(LC Paper No. CB(1)1298/06-07(05) -- Submission (English version only))

21. Mr David WEBB remarked that the Government was becoming more interventionist. He recalled that when introducing the FGF on 17 October 2002, the Government had announced that it had no intention to invest or take part in film production. However, it now proposed to earmark $300 million to support the industry and part of this sum would directly invest on film production. His further comments on the Government's current proposals were summarized as follows:

(a) The $300 million commitment would not displace private funding which was already available for films. It would only finance films which the private sector was not willing to pay for. In either case, it distorted the free market. It was also against the spirit of the Government's commitment to the World Trade Organization (WTO) to open up the local market for fair competition. The Korean film industry was a case in point. The Korean Government had spent a lot of taxpayers' money to support Korean films and required cinemas to spend 40% of their time showing Korean films. Under the WTO agreement, this quota had been reduced by half. At the same time, the Korean Government announced that it would provide direct subsidy of US$200 million as well as 5% of all box office revenues totaling US$400 million to subsidize the film industry. This showed that the efforts made by a government would not necessarily help revitalize an industry but a continual commitment of public funding.

(b) The FGF did not achieve much in helping the small-to-medium budget film productions since according to the information provided by the Government, six out of the 11 approved loan guarantees went to listed companies or their subsidiaries. These companies could indeed gain access to other sources of finance, such as the stock market, and did not need to resort to government assistance. In this connection, he highlighted that if there was real demand for small-to-medium budget film productions, the private sector would certainly finance them, and government support and hence financial assistance would never come into play.

(c) The Government's claim that the film industry was an important creative industry which could bring about 'spin-off' benefits to Hong Kong did not justify the allocation of public resources to it. He remarked that if it was the case, other creative industries such as pottery which was one of China's oldest crafts should also be entitled to have public funding support so as to sustain its development. It would also follow that government subsidies to different sectors and hence its intervention in the economy would never come to an end.

(d) Rather than market intervention, Mr WEBB opined that the Government should provide good regulatory support structure such as copyright protection to help foster a healthy business environment for the film industry.

22. Mr David WEBB then referred to an opinion poll he conducted via the Internet. He informed that among the some 600 respondents, 91% considered that the Government should not invest public money in movie production; 92% considered that the Government should stop granting guarantees through the FGF; 89% held that the movie industry should not receive special government treatment relative to other for-profit sectors in Hong Kong; and 68% considered that the proposed movie fund bore relation to the electoral system of Hong Kong. To conclude, he stressed that there was clear indication that the public opposed to the Government's initiative to provide financial support to the film industry.

Preliminary response by the Administration

23. At the invitation of the Chairman and in response to the views expressed by the deputations, Permanent Secretary for Commerce, Industry and Technology (Communications and Technology) (PSCT) highlighted the background and rationale underlying the Government's package of measures to support and further develop the film industry with a view to enabling it to make a greater contribution to the overall economy of Hong Kong, as well as to better compete with overseas counterparts in the globalized environment. He pointed out that Hong Kong had never been an entirely non-intervention, free market economy. Where necessary, the Administration would make policy adjustments as appropriate. He pointed out that as mentioned by some deputations that the film industry had reached a turning point of terminal decline, it was hoped that some form of government underpinning would give an impetus to help revitalize the declining film industry. Moreover, a robust film industry, as a flagship of vibrant creative industries in Hong Kong, could contribute to the development of tourism and service industries, and also enhance the international and cultural image of Hong Kong.

24. Regarding the concern expressed by some deputations about possible market intervention by the Government, PSCT highlighted that the Government's assistance to the film industry was very limited both in terms of the amount of investment to be made and the risks involved, as the funding support would only be targetted at small-to-medium budget film productions with a budget not exceeding $12 million and the Government's contribution would be capped at a maximum of $3.6 million (i.e. 30% of the production cost) per film. He added that the timely injection of $300 million by the Government was expected to achieve a leverage effect by spurring venture capital and commercial companies to invest in the film industry, thereby helping revitalize the local film industry.

25. On members' concern about script censorship, PSCT said that in formulating the "Proposed eligibility and assessment criteria for financing film productions under the New Film Development Fund" (i.e. items (a) to (d) in Annex A of the Administration's paper), reference had been drawn from the existing funding criteria of FDF. He pointed out that item (d) which was related to the assessment criteria for the vetting of script content was largely based on TELA's existing criteria in film classification. He clarified that the purpose of item (d) was to draw film production companies' attention to the factors to be considered, including not to seriously offend the accepted standard of decency and social value, and the need to comply with the relevant provisions under the FCO for commercial theatrical release. He stressed that vetting of content of scripts would be kept to the minimum, and there was no question of a pre-approval content censorship mechanism, nor did the Government have any intention to stifle creativity. Nevertheless, in view of the concern of members and the industry about content censorship, PSCT undertook that the Administration would revise the relevant eligibility and assessment criteria as set out in item (d) to dispel any misunderstanding. He urged members to support the funding and staffing proposals. He also undertook to further liaise with the industry on the implementation and technical details.

Admin

26. As regards some deputations' concern that government funds would be used to finance film production that had little commercial value, CTEL stressed that the film industry would remain market-led as the Government's assistance only amounted to 30% of the production budget. CTEL pointed out further that film projects which were not commercially viable and did not have market endorsement would not meet the criteria for funding approval as there would be some form of commercial assessment which required, inter alia, that the film project had secured at least 50% undertaking of the production budget by third-party financier(s) prior to applying for FDF's funding. Echoing PSCT's views, she said that it was envisaged that the limited government financial assistance would have the leverage effect of increasing especially the number of small-to-medium local film productions.

Discussion

Financing small-to-medium budget film productions

27. On the scope of work in relation to film production where financial support would be received from the Government, the Chairman enquired and PSCT advised that generally speaking, all the costs directly related to film production such as those involving post-production, etc could be included in the budget for funding application. Other support measures such as the training of talents in various areas of film production and distribution, as well as protection of IP rights and IP education to enhance public awareness as recommended by deputations would be considered separately.

28. Disagreeing with the principle of Government non-intervention as advocated by the LRI which in his opinion would only encourage the Government not to take up its due responsibility especially the assistance to be made to SMEs, Mr Ronny TONG expressed his in-principle support for the Government's financial commitment to assist the local film industry. He said that measures to assist small-to-medium sized film productions would be conducive to fair competition and a healthy development of the film industry by eliminating monopoly by large corporations which had the financial means for film productions. He was, however, a bit disappointed as there was no consumer representatives at the meeting to express their views on the proposed support measures for the film industry and to reflect consumer expectations for the film market. In this regard, while expressing his appreciation of the opinion poll conducted by Mr David WEBB, he had reservation on whether it was representative. He then sought information on whether the Administration had conducted any survey in this respect and if not, whether the Administration had any plan to proactively gauge public views for reference.

29. In reply, PSCT said that that the Administration did not have any statistics on hand for reference by members. Nevertheless, the Government was of the view that given the limited financial support to be rendered by the Government, there would be more small-to-medium sized film productions for a wider consumer choice, thereby enhancing healthy competition and hence development of the local film industry. He remarked that the Administration would give careful thought to the methodologies on how best a comprehensive and scientific survey could be conducted to gauge public views in this respect for members' reference. In this connection, Mr CHEUNG Tung-joe of HKFDG said that although he had not conducted a formal opinion poll, he had gauged the views of certain people such as his friends. They generally opined that the funding support to be made by the Government could give the film industry an impetus to revive. However, Mr Andrew SHUEN of the LRI held the view that the decline in the box office revenues in recent years was the best indication that the film industry was being out-phased by emerging new entertainment options and other recreational attractions such as karaoke and on-line games, etc.

30. Mr Howard YOUNG indicated his support for the funding proposal to finance small-to-medium budget film productions. He said that the movie industry was a unique industry, and he hoped the FDC, the FDF and the FGF would give the movie industry the much needed help for its growth and development. He also recalled that discussion about the FDF and FDC could be traced back to many years ago, at which time in addition to providing guarantee loans and funding support for the local film industry, the focus was also on how to attract and facilitate foreign companies to do film production and location shooting in Hong Kong. He said that to support local film-makers and to attract overseas film-makers to come to Hong Kong were both worthwhile causes. He envisaged that a strong local film industry and local shooting would benefit Hong Kong's tourism industry, just as the high popularity of Korean movies and TV series had drawn many tourists to Korea.

31. While expressing his personal support for the Government's injection of fund to assist the sustainable development of the local film industry, Mr SIN Chung-kai cautioned that the industry should bear in mind that government financial assistance was made possible because there was currently a financial surplus, which would not always be the case. While he recognized that the Government would be entitled to pro-rata sharing of the proceeds, he was concerned that the FDF would eventually be depleted. Moreover, referring to the operation of other similar assistance funds, for example funding for innovative scientific projects, Mr SIN said that it was not uncommon to have disputes and complaints arising from the vetting of applications for funding approval. As such, he urged the Administration to plan ahead on how best to close the loopholes in the vetting mechanism in anticipation of the problems and disputes which might arise.

32. In this connection, Mr Gordon CHAN of HKFDG likened the movie industry to a vintage car that had broken down, with its tyres stolen and in need of an engine re-start. He stressed that all that the film industry needed was some form of funding support to jump-start the engine, and a revival would then follow.

33. Mr Tony SHU of MPDAHK remarked that at its peak of production in 1990s, many films produced by small-to-medium film production companies were released and well received outside Hong Kong. It was only in the recent 10 years that there was a substantial decline in film production. He echoed that the Government's funding support would give an impetus to help the industry to take on a course of rebound, such as making more films to meet the market demand.

34. Mr NG See-yuen of FHKF also added that the film industry would not rely on Government funding support in the long run. He was of the view that the film industry would stand on its own once it tied over the current difficulty.

35. Mr Albert CHAN considered, however, that Government funding for film development seemed to be more of a political posturing than a visionary policy initiative, and the modest financial support could not possibly bring back to the film industry its past glory. Nonetheless, the funding support to be provided was better than nothing and there was no reason to oppose it. In this connection, however, he cautioned against the possible turning of the FDF into a vehicle for the transfer of interests, such as channeling money for the production of politically correct movies that lavished praises on nationalism, etc. He called on local film-makers to hold fast to their professional conscience and not to trade their creativity, principles and artistic values for Government funding support.

36. While stating that she previously had reservation on providing funding support to the film industry, Ms Emily LAU said that she now agreed in principle to the support measures proposed by the Government on the grounds that other creative industries and performing arts activities in Hong Kong such as orchestra, drama and dancing also received government funding support, and in particular that other neighbouring countries provided financial support to their own movie industry as well. However, Ms LAU shared Mr Albert CHAN's concern that the funding support should not become an incentive steering the local movie industry

towards producing films to please the Central Government. Recalling the case of a movie about riot in Hong Kong entitled "The Plague" directed by Mr Lung Kong which was subsequently edited and retitled "Yesterday today tomorrow" by Xinhua News Agency, she raised the concern on the possible interference of the Central Government with the local movie production and manipulation of the film industry through the provision of government funding. She cautioned the local film makers against self-censorship, and urged them not to trade their creative conscience and professional ethics for funding support.

37. On the worries that the local movie industry would turn its creative direction to meet the Central Government's wish, Mr Gordon CHAN of HKFDG stressed that such worries were unfounded as he envisaged that there would be no market for politically correct films made purely to please the Central Government. Sharing his view, Mr Tony SHU of MPDAHK also opined that film productions on pure political theme which had no mass appeal would not attract any commercial investment.

38. Mr CHEUNG Tung-joe of HKFDG remarked that local film-makers would stick to their artistic conscience and integrity, and would not cave in to pressure from the Mainland authorities to produce films to simply please the Central Government. Referring to the films "Election" and "Election 2" directed by Mr Johnnie TO, he pointed out that many local films were in fact produced to reflect the social reality.

39. Mr NG See-yuen of FHKF also said that 99% of film-workers in the local movie industry were professionals with independent thinking who all along steadfast to the principle of creative independence and would not bow to political interference from the Government. In this connection, he pointed out that the Mainland's censorship standards were being relaxed progressively, and many movies which in the past could not possibly have been released in the Mainland were now making headways there.

40. Mr John SHAM remarked that government funding approval was mainly based on commercial viability such as the rate of return and the reasonableness of the budget; and on professional standards including whether the film production had mass appeal and up to a standard for commercial theatrical release, rather than on political consideration of the content of the movie. He said that film-makers were driven not by political consideration but by market demand. If one day the market should demand politically correct movies, film-makers might produce such kind of movies, except that they would do so not because of political consideration but because of market demand. He added that a reconstituted Vetting Committee comprising some members of the FDC and co-opted members from the film industry and other professionals would be tasked to assess applications and to make recommendations on the disbursement of funds. Funding for financing film productions would be disbursed upon the advice of the Vetting Committee to be assisted by experts drawn from a Panel of Examiners who were professionals with experience in film productions and financing as to provide the necessary commercial and technical input in the assessment process.

41. Referring to LRI's stance against the Government's direct funding to finance film productions, Mr Andrew SHUEN maintained, however, that it was unfair to use taxpayers' money to subsidize films that had no audience. If taxpayers chose to support the film industry, they should do so by paying to see the movies in the theatre instead of buying DVDs.

42. Echoing Mr SHUEN's view, Mr David WEBB noted that the market was becoming more sophisticated and people were no longer interested in watching small budget films. He queried why the Government would still want to subsidize small-to-medium budget film productions. Pointing out that the local film industry had a number of listed companies, large and small, which were financially capable of funding their own productions, Mr WEBB was of the view that the movie industry should stand or fall on its own merits, and there was no justification for investing public money in the movie industry, particularly in films that no one wanted to watch. He remarked further that anti-competitive behaviour, if any, in the film industry, such as in the distribution of small budget films, should be dealt with through the anti-competition law, instead of using public money for subsidy as a resolution.

43. Mr Patrick TONG of HKCFL, however, objected to the comments made by Mr SHUEN and Mr WEBB. He pointed out that the Government's "subsidy" was in fact a form of investment in which the Government was entitled to cost-recouping and profit-sharing in the proceeds of the film commensurate with the Government's share of contribution. He said that local films in fact had high patronage and some even won international awards. The problem was that, with rampant illegal down-loading of film products on the Internet and the abuse of rental right of such products, people did not pay to watch films in the cinemas.

44. In this connection, PSCT remarked that it was not so much that people did not want to watch small-to-medium budget films but that the production of these films were on the decline.

Film Development Council (FDC)

45. On the setting up of the FDC, Mr Albert CHAN said that given the complexity of film production, such as arrangements for location shooting, post-production marketing and distribution, etc, he had advocated the establishment of a central co-ordinating body 10 years ago for effective planning, co-ordination and facilitation of the full range of areas of movie production to cut through bureaucratic red tapes which impeded filming making and drove film-makers elsewhere. As such, he questioned why the Administration had taken so long to set up such a central co-ordinating council.

46. PSCT replied that the expanded FDC that was entrusted with broader and more onerous film-related advisory and executive duties to advise SCIT on the policy, strategy and planning for the promotion and development of the film industry had officially been established with its members appointed for a term of

two years. Resorting to an incremental approach, the Government would review the operation of the FDC in a few years' time, and would, in the light of the operational experience, decide whether the FDC should purely be an advisory body, or whether it should progress towards a statutory body, vested with executive responsibilities and financial accountability similar to those of TDC and TC. He added that the setting up of the FDC was in itself a major step forward since all matters relating to the development of the film industry previously scattered around a number of government and public bodies were now brought under the remit of the Council.

47. Noting that the Government had already appointed members to the newly established FDC, Miss CHAN Yuen-han expressed concern about the appointment mechanism and questioned whether people who held divergent views from the Government would be appointed to the FDC.

48. In reply, PSCT stressed that the majority of the film-workers were individuals with independent thinking. There was no question of the Government appointing only those who toed the official line. He also remarked that it would be unfair to the members of the FDC as to suggest that they were tools of the Government and would only rubber stamp government policy.

49. In this connection, Ms Emily LAU also enquired whether the present make-up of the FDC had achieved fair-play for all or was it dominated by selected major players in the film industry.

50. In response, Mr CHEUNG Tung-joe of HKFDG said the industry in general accepted the present make-up of the Council as the membership of which had now included representatives from the film industry to provide balanced views.

Eligibility and assessment criteria

51. Miss CHAN Yuen-han commented that the entertainment industry in Hong Kong had flourished with the advance in information technologies. She indicated her support for the Government's financial assistance to the film industry which she considered would be conducive to the development of new creative trends and initiatives. However, with regard to the deputations' concern about the vetting of content of scripts, Miss CHAN enquired whether the Administration had consulted the industry when drawing up the proposed eligibility and assessment criteria for financing film productions, in particular item (d) in Annex A of the Administration's paper which stated that applications involving scripts which were likely to result in film that disproportionately depicted violence or sex or which insulted any class of the public by reference to their race, religion belief or sex would not normally be considered.

52. In reply, PSCT affirmed that informal discussions had been held with the industry, and the Film Development Committee had given in principle support to the proposed assessment criteria. He reiterated that the proposed criteria were based on the existing yardsticks provided under the FCO. Acknowledging that

item (d) as it was worded and expressed might have caused misunderstanding and aroused concern among Members and the industry, he stressed that the Administration had no intention to impose any content censorship or script restrictions. He re-affirmed that the criteria would be appropriately revised to allay the concern of Members and the industry, as well as to ensure that creativity would not be stifled.

53. As a member of the FDC, Mr John SHAM also clarified that the proposed criteria were only guidelines for reference and were not meant to be conditions for funding approval. He recalled that the consensus was to assess the film project from a professional and commercial perspective focusing on whether the film was commercially viable, whether the budget was reasonable, and whether the quality was up to the standard for commercial theatrical release. He stressed that censorship of script content never came into play, and if there would be so, he would be the first one to oppose to the imposition of such a censorship.

54. The Chairman added that his support for the funding proposals was subject to the assessment criteria being suitably amended to remove any reference implying a censorship of content of scripts. He suggested in particular that the phrase "would not normally be considered" in item (d) should be deleted. The Administration took note of the Chairman's suggestion.

55. Referring to the funding criteria as set out in paragraph 15 of the Administration's paper, Mr Howard YOUNG asked whether, apart from commercial factors such as investment returns, other non-commercial considerations would also be taken into account, such as whether the movie was contemporary or classical, and whether the filming was done in Hong Kong or shot outside Hong Kong.

56. In response, PSCT said the funding criteria did not specify any requirements on the type or nature of movies which could receive funding support. There was also no specific requirement on the location of shooting. He added that one condition was that at least 50% of the main cast and film crew should be Hong Kong permanent residents. He stressed that such a condition was in line with the policy of supporting the local movie industry in creating a larger critical mass of film activities and employment opportunities in Hong Kong.

Efforts on combating piracy

57. On measures to combat piracy of film products, Mr Ronny TONG opined that rampant piracy remained a major threat to the long-term development of the film industry. As such, he called on the new FDC, with its expanded scope of responsibilities, to proactively formulate specific and constructive measures to combat piracy in collaboration with the Customs and Excise Department (CED).

58. Mr CHEUNG Tung-joe of HKFDG opined that the piracy of film products had deprived the film industry of a fair competition and had dealt a heavy blow to the industry. He said that some unscrupulous operators had made use of loopholes in the video rental business for profiteering, resulting in an estimated 40% loss in

the business. As such, he also requested the Government to expedite the review of the existing legislative provisions on rental right of movie products to plug the loopholes.

59. In reply, PSCT said that in addition to the CED's regular on-going vigorous enforcement efforts to combat piracy, the tackling of the problem of piracy would be one of the major work focus of the new FDC such that specific measures targeting at such issue would be drawn up.

Staffing proposal

60. On the creation of a new permanent D2 post, designated as SG/FDC, to underpin CTEL in supporting the FDC, Mr Howard YOUNG said the Liberal Party was always cautious towards the creation of permanent directorate posts. He questioned whether such a high ranking post was required for heading the Secretariat of FDC which was only an advisory but not a statutory body. He also considered the justifications as provided by the Administration in its paper too general. As such, he called on the Administration to provide more detailed justifications and job description when seeking the Establishment Subcommittee's endorsement and the Finance Committee's funding approval of the staffing proposal. The Administration took note of Mr YOUNG's concerns and suggestion.

Admin

Concluding remark

61. Noting that no members raised objection to the funding and staffing proposals, the Chairman concluded that the Panel supported in principle the proposals to increase the commitment by $300 million for the FDF with an enlarged scope to finance small-to-medium budget film productions; and to create a permanent D2 post in TELA, designated as SG/FDC, to enhance the secretariat support for the new FDC.

V. Provision of Wi-Fi facilities at government premises

(LC Paper No. CB(1)1298/06-07(07) --	Paper provided by the Administration
LC Paper No. CB(1)1365/06-07(03) -- *(Chinese version only)*	Letter dated 13 April 2007 from Hon SIN Chung-kai
LC Paper No. CB(1)1394/06-07(02) -- *(tabled and subsequently issued on 18 April 2007)*	The Administration's reply to the letter dated 13 April 2007 from Hon SIN Chung-kai

LC Paper No. CB(1)1298/06-07(08) -- Written question raised by Hon CHAN Yuen-han on "Developing city-wide wireless broadband service" at the Council meeting on 24 January 2007 and the Administration's reply

LC Paper No. CB(1)1298/06-07(09) -- Written question raised by Hon Jasper TSANG Yok-sing on "Computer Network Facilities in Hong Kong" at the Council meeting on 7 February 2007 and the Administration's reply)

Presentation by the Administration

62. At the invitation of the Chairman, Deputy Government Chief Information Officer (Operation) (DGCIO(O)) briefed members on the proposed Programme for providing Wi-Fi facilities at major Government premises. The salient points were highlighted as follows:

(a) In the submissions received during the public consultation on 2007 Digital 21 Strategy, there was general support for making broadband Internet access available to all citizens in Hong Kong. While Wi-Fi services were mainly provided at densely populated commercial premises and residential areas by commercial service providers, to further facilitate public access to Wi-Fi services anytime and anywhere, it was proposed that Wi-Fi facilities be installed in around 350 Government premises with high public patronage, including public libraries, museums, large parks, key cultural and recreation, community halls, and those government offices that were frequently visited by the public. The local community could have free and convenient access to the Internet services for business, studies or leisure where these facilities were provided;

(b) Though the Wi-Fi facilities at various Government premises would be provided free of charge to help lower the economic barrier for Internet access and help bridge the digital divide in the community, charges would continue to be levied by the respective service providers for individual transactions and services that were chargeable, e.g. as in the case of e-commerce or e-government transactions that were related to the users' personal accounts, etc;

(c) To avoid citizens from entering into obscene websites, appropriate filtering software would be installed to filter improper sites that were blacklisted. On information security, relevant security measures would be introduced to protect the proper use of the Internet services by members of the public. Network monitoring system would be implemented to monitor and prohibit improper use of the service;

(d) The proposed Wi-Fi Programme was expected to bring benefits on all fronts, such as offering convenience and affordable Internet access to the public, providing more diversified and effective e-government services, facilitating businesses in all sectors, fostering the development of ICT industry, and promoting the positive image of Hong Kong as tourists could enjoy better information/tourist services with Wi-Fi facilities to be installed in some tourist spots like museums, etc;

(e) The installation of Wi-Fi facilities, implementation of Wi-Fi services as well as the on-going operation would be outsourced through open tendering. Subject to funding approval by the Finance Committee (FC) in May 2007, tendering procedures would begin in mid-2007 for commencement of implementation by end 2007; and

(f) A total non-recurrent provision of $227.5 million for the period 2007-08 to 2009-10 would be sought for acquiring the required installation and implementation services, performing site preparation, conducting publicity and promotion campaigns, as well as co-ordinating and managing the implementation programme. The full-year recurrent expenditure from 2010-11 onwards for on-going maintenance, operation and support for the Wi-Fi facilities was estimated to be in the region of $19.2 million. The actual non-recurrent and recurrent expenditure requirements, however, would depend on the outcome of the tendering exercise.

He urged for members' support for the funding proposal to be made under Capital Works Reserve Fund (CWRF) Head 710 Computerization for implementing the proposed Programme.

Discussion

Government premises to be installed with Wi-Fi facilities

63. Mr Howard YOUNG said that he fully supported making broadband Internet access available to all citizens in public places free of charge. Referring to the Annex of LC Paper No. CB(1)1298/06-07(07) detailing the distribution of about 350 government sites where Wi-Fi facilities for Internet access would be installed, Mr YOUNG noted that libraries and community halls/community centres had the biggest share of Wi-Fi facilities to be installed while there would only be three large parks where Wi-Fi facilities would be provided. As such, he was concerned about the priority of distribution of Wi-Fi facilities, in particular that the opening hours of public libraries were shorter than some open space area and tourists spots such as large parks and museums that were also frequently visited by the public and tourists. He enquired whether consideration would be given to re-distributing the installation spots of the Wi-Fi facilities. He also sought

confirmation on whether the Tsim Sha Tsui (TST) Promenade which was frequented by the public would be provided with Wi-Fi facilities.

64. In reply, DGCIO(O) advised that the premises to be provided with free Wi-Fi facilities did not include the TST Promenade. Nevertheless, he stressed that while Wi-Fi services at the metropolitan level were provided by commercial service providers at commercial premises, the Government aimed to provide Wi-Fi services at selected government premises which were frequented by the public and tourists so as to facilitate free and convenient public access to Internet services.

65. In this connection, Mr SIN Chung-kai said that he personally supported the provision of free Wi-Fi facilities in libraries. He remarked that it was worth the resources to facilitate users of public libraries such as students to have quick and more convenient access to Internet services for study purposes.

66. While noting that commercial service providers were providing commercial Wi-Fi services in commercial premises such as fast food shops, cyber cafes, restaurants and convenience stores, Mr Howard YOUNG called on the Administration to consider providing wireless Internet access service in premises such as major tourists spots and museums where private commercial service operators did not see any commercial incentives to offer Wi-Fi services. He remarked that the provision of Wi-Fi facilities to facilitate visitors in their business and leisure activities during their stay in Hong Kong would help project a positive image of Hong Kong and uphold its status as a leading digital city. DGCIO(O) took note of Mr YOUNG's suggestion, and undertook to liaise with the relevant government departments in this regard.

Concerns of the industry and Class Licence regime

67. Referring to the recent complaints made by some mobile network service providers on the Government's competition with the commercial service providers for profit, Mr SIN Chung-kai stressed that in implementing the Programme, the Administration should be mindful of avoiding competition with the private sector.

68. In response, DGCIO(O) remarked that given the global trend in many international cities towards developing city-wide wireless broadband access, it was the Government's vision to provide convenient access to wireless services at selected Government premises with high public patronage to bring more convenience to Internet users and to support the community to make use of the latest telecommunications technologies. He stressed that the Government had no intention to take the place of private service providers. There was also no question of the Government playing the role of a service provider or carrier to the extent that it would compete with commercial service providers such as mobile carriers. He explained further that in the context of the proposed Wi-Fi Programme, the Government was merely adopting the role of a "user" making use of products and services available in the market to facilitate patrons of the selected government venues to access the Internet using wireless LAN technology and industry standards. As such, the Government would also be subject to charges to

be levied by the concerned commercial service provider(s). He added that through the proposed Wi-Fi Programme and in tandem with other Wi-Fi initiatives in the private sector, it was envisaged that nearly ubiquitous access to the Internet would be progressively available to all citizens in Hong Kong, and hence the upholding of the Hong Kong's status as a leading digital city.

69. As regards concerns about unfair competition and the impact of the Government Wi-Fi Programme on mobile network operators including the 3G providers, he stressed that the impact would only be minimal and if any, on the positive side. He said that the choice of Wi-Fi standards and technologies for the Programme was the result of an extensive and careful study of international and industry developments. As such, the adoption of Wi-Fi technologies did not constitute any form of subsidy to any operator or service provider. He pointed out further that Wi-Fi technology had its own unique characteristics in terms of speed, data capacity and mobility which were different from other mobile technologies such as 3G. Instead of direct competition with other telecommunication technologies, the proposed Wi-Fi Programme would have positive impact on the ecosystem of the mobile industry at the macro level and would bring benefits to all industry players irrespective of the technology they were providing. Moreover, "wireless" and "mobile" were complementary solutions. It was envisaged that the proposed Wi-Fi Programme would help raise the general public's awareness on the benefits of using wireless and mobile services, with the indirect result of catalyzing the development of more mobile applications, as well as generating more mobile users. He indicated further that more than one contractor would be selected through open tendering to deliver the Programme. Moreover, Wi-Fi facilities and equipment of the same standard were generally compatible and the wireless networks of different service operators were integrated and inter-connected. As such, he reiterated that the proposed Wi-Fi Programme would only bring about positive impact to the ICT industry as a whole, rather than resulting in unfair competition nor undesirable impact on commercial service providers.

70. On the regulation of the provision of public Wi-Fi services, Mr SIN Chung-kai remarked that Class Licensees registered with the Telecommunications Authority (TA) under the Telecommunications Ordinance (TO) (Cap. 106) could only provide coverage on indoor areas of urban commercial premises (i.e. not crossing public streets or unleased Government land). While noting that the provisions of TO might not be binding on the Government, he sought clarification on whether premises such as public parks and libraries were regarded as unleased Government land. He also cautioned that the Administration, in implementing the proposed Wi-Fi Programme, should be careful as to avoid contravention of the relevant requirements of the law.

71. In response, DGCIO(O) assured members that the Administration would abide by the law, and would require the service providers and operators concerned to comply with the relevant requirements of the law in implementing the Programme. He added that as registered Class Licensees could only provide public Wi-Fi services which covered indoor areas of urban commercial premises and that a fixed carrier licence was required for provision of the concerned services

across public streets or unleased Government land, such requirements would be set out clearly in the tender document so that the eventual service provider(s)/operator(s) would possess the necessary licences for provision of Wi-Fi services in the concerned government venues. At the request of Mr SIN Chung-kai, he undertook to provide detailed written response to address the concerns on the Government's possible competition with the commercial service providers for profit, unfair competition, as well as the Class Licence regime under TO for members' reference prior to seeking FC's funding approval.

Admin

Measures to assess cost-effectiveness of the Wi-Fi Programme

72. In view of the increasing wide-spread use of the wireless Internet access service, Mr Albert CHAN urged the Administration to specify as early as possible an official Chinese term for Wi-Fi service. In this connection, having regard to the huge amount of public fund to be involved in the proposed Wi-Fi Programme (an estimated non-recurrent expenditure of $227.5 million and an estimated recurrent expenditure amounting to $19.2 million), Mr CHAN enquired whether the Administration had any target utilization rate in mind against which the cost effectiveness of the Wi-Fi Programme could be assessed, and whether a mechanism would be put in place to measure the utilization rate of the facilities.

73. DGCIO(O) said that a study had been conducted to identify the government venues to be equipped with Wi-Fi facilities. In general, only government buildings with high public patronage of not less than 1 000 persons per day and where Wi-Fi facilities were expected to be used frequently would be provided with the free Internet access facilities. A Programme Steering Committee would be set up to monitor the implementation of the Programme, as well as assessing its effectiveness. At the request of Mr Albert CHAN, DGCIO(O) undertook to provide further information on the measures for assessing the effectiveness of the proposed Wi-Fi Programme.

Admin

Websites filtering mechanism

74. On access to obscene websites and unauthorized downloading on the Internet, Mr Albert CHAN enquired about the measures to be taken by the Administration to prevent Internet users from entering into such websites or making unauthorized downloading via the free Wi-Fi facilities to be provided by the Government.

75. In reply, DGCIO(O) said that service providers would be required to install filtering software to filter improper websites which were black-listed. The filtering service requirements and the list of improper websites would be updated regularly with reference to market standards and in consideration of the needs of and responses from the public. Network monitoring system would also be implemented to monitor and prohibit improper use of the service such as spamming. On unauthorized downloading, he stressed that while there would not be any censorship on the content of Internet transactions, discussion was underway with the law enforcement agencies to work out effective solutions to facilitate, where

necessary, detection and investigation of cyber crimes.

Concluding remark

76. Summing up, the Chairman concluded that the Panel supported the Administration's proposal to make available free Wi-Fi facilities at major Government premises. He requested the Administration to take note of members' views and concerns, and to provide the written information as requested by members before submitting the funding proposal to FC for consideration. He added that the information to be provided should also be included in the Administration's submission to FC for reference.

Admin

(*Post-meeting note:* The Administration's written responses were issued to members vide LC Paper No. CB(1)1574/06-07(01) on 10 May 2007.)

VI. Issues relating to Internet disruptions caused by earthquake damage to undersea cables

(LC Paper No. CB(1)1298/06-07(10)	--	Paper provided by the Administration
LC Paper No. FS16/06-07 *(Chinese version only)*	--	Fact sheet on "A summary of press reports on the Internet disruptions caused by earthquake damage to undersea cables (Based on press reporting from 27 December 2006 to 11 April 2007)" prepared by the Research and Library Services Division of the Secretariat
LC Paper No. FS17/06-07	--	Fact sheet on "Restoration capabilities of telecommunications operators in overseas places" prepared by the Research and Library Services Division of the Secretariat)

Briefing by the Administration

77. Members noted that at the Panel meeting held on 15 January 2007 to discuss issues relating to Internet service disruptions caused by earthquake damage to undersea cables on 26 and 27 December 2006 (the Incident), the Office of the Telecommunications Authority (OFTA) was requested to provide a post-mortem evaluation report on the Incident, including issues such as follow-up actions taken by OFTA, improvements to be made to the outage reporting mechanisms, as well as the Administration's response to the suggestions made by the deputations etc.

78. At the invitation of the Chairman, Deputy Director-General of Telecommunications (DDG/Tel) took members through the report on the disruptions of Internet services prepared by OFTA, and briefed members on the actions taken by the Internet service providers (ISPs) for service restoration and on the improvement measures drawn up by OFTA to better cope with similar incidents in the future. He highlighted the salient points as follows:

(a) Prior to the Incident, ISPs already had contingency plans in force to cope with severe network outages or congestion caused by natural and/or man-made disasters. When the Internet traffic was disrupted due to submarine cable damages caused by the earthquake on 26 December 2006 evening and the afterquakes in the early hours of 27 December 2006, the ISPs had promptly activated their respective contingency plans, and established crisis management teams in an attempt to restore their services. Operators had exhausted various means to identify resources in the market, as well as acquiring external network bandwidth to alleviate the loss in Internet capacity. Although the recovery rate might be different for individual operators, ISPs, on the whole, managed to increase the bandwidth progressively from 28 December 2006 onward. About 80% of the affected services had resumed normal by 3 January 2007.

(b) On the comparatively slower restoration of service by some operators, such as PCCW, DDG/Tel explained that this was mainly because the remaining capacity of the cables left undamaged (about 10%) was not sufficient to meet the need of all the operators. There was a huge demand for bandwidth during the crisis as impacted overseas ISPs were also competing for the external network capacity in the international market. As a result, it was more difficult for ISPs of a larger business size such as PCCW to secure sufficient spare capacity in the market for full service recovery. Nonetheless, PCCW was able to restore all of its International Direct Dial (IDD) service within a few days. Given that the Incident was unprecedented and in view of the extent of the damage where six out of seven undersea cables were put out of service, the local ISPs' restoration capability and the speed of recovery were considered acceptable. OFTA considered that the ISPs had responded in a timely manner and had made their best efforts in making necessary arrangements to resume normal service to the public;

(c) Immediately after the Incident, OFTA had convened a meeting to review the outage reporting mechanisms with local cable-based External Fixed Telecommunications Network Services (EFTNS) operators as well as ISPs. Two working groups were established to review the outage reporting mechanisms for cable-based EFTNS operators and ISPs respectively. In consultation with the two working groups, OFTA had formulated new guidelines for reporting submarine cable system outages, external telecommunications service outages, and Internet service outages with a view to strengthening communications and co-ordination between the operators and OFTA. The guidelines had been put into effect since 28 February 2007. Generally speaking, in the event of major submarine cable system outages, or disruptions to external telecommunications or Internet services, the operators concerned were required to report to OFTA within the specified timeframe, i.e. two hours from the confirmation of the incident or within four hours from the happening of the incident. OFTA would assess the impact on the territory to determine whether a public alert should be issued;

(d) OFTA had reviewed the contingency plans of ISPs and offered suggestions for further improvements for their better preparedness for similar incidents in future;

(e) On improving information dissemination by ISPs, ISPs were required to observe strictly OFTA's guidelines on reporting of network and service outages. The operators, having first-hand information on the operational status of their networks and services, should promptly inform their customers of the service impacts and provide update on the restoration progress through their hotlines, websites or customer services as appropriate;

(f) On further strengthening the telecommunications infrastructure and to avoid over-reliance on the submarine cable systems passing through the earthquake region in Luzon Strait, OFTA had initiated discussions with the Ministry of Information Industry (MII) of the Mainland to explore, in addition to what had already been put in place by existing commercial agreement, the possibility of making "transit arrangements" for backup capacity by using overland cables to connect Hong Kong to other countries via the Mainland's cable systems so as to provide more effective route diversity;

(g) On inter-governmental precautionary mechanism and contingency plan, OFTA had met with MII and the Infocomm Development Authority of Singapore in March 2007 to discuss, inter alia, the feasibility of information exchange if similar problems arose in future. OFTA would continue to explore possibility for co-operation in this regard; and

(h) Mindful of Internet service disruption's adverse impacts to the industry and, in particular, to small and medium enterprises (SMEs), OFTA had attended the meeting of the SME Committee of the Trade and Industry Department in February 2007 and held discussions with the SME representatives on the impacts to SMEs as a result of the outage and also on the assistance that they would need in order to cope with similar emergency in future. Suggestions were made to SMEs on how to improve their communication links with their business partners and on the terms of service agreements to be entered with ISPs so as to manage business continuity during disastrous situations in future. In this connection, the Office of the Government Chief Information Officer (OGCIO) planned to issue within two to three months guidelines for SMEs in relation to business continuity planning and incident response to cater for adverse events, such as service disruption of the Internet. OFTA would provide necessary assistance to OGCIO for preparing the information.

Discussion

Role of OFTA in the dissemination of information to the public

79. Mr Albert CHAN said that in the regulation of the ISPs, the new guidelines formulated by OFTA in conjunction with the industry had set out a clear reporting mechanism for Internet service outages. He, nevertheless, was still dissatisfied with OFTA's slow reaction to the Incident and in taking appropriate timely actions to notify the public. He regarded this as a serious blunder on the part of OFTA for which OFTA owed the public an apology. He said that OFTA's failure to inform the public timely of the situation had worsened the network congestion problem as members of the public, not having a full picture of the extent of the Internet disruption, continued to compete for the limited services which in turn aggravated the situation. He said that besides strengthening the regulation of ISPs, OFTA should also review critically its own role and responsibilities in the Incident to regain credibility and public respect. He criticized OFTA for shunning its responsibilities and queried why OFTA/the Administration had not set up any mechanism for self-regulation.

80. While considering as satisfactory the follow-up actions taken by OFTA and the improvement measures subsequently drawn up in conjunction with industry operators, the Chairman shared Mr Albert CHAN's view that OFTA had not fully addressed members' concern expressed at the Panel meeting in January 2007 about OFTA's failure to take initiative in making early notification and timely dissemination of information to the public to alleviate public anxiety and misunderstanding. The Chairman also considered that the new Internet service outage reporting mechanism had not duly addressed members' concern in this regard. He stressed that it was unacceptable to simply specify the timeframe for service operators to report any system outage, and that it was also insufficient to simply state that OFTA would assess whether the impact on the territory was serious enough to warrant notification to the public.

81. Ms Emily LAU concurred with the Chairman that OFTA should not gloss over its responsibility for simply indicating that an assessment on the situation would be made upon receipt of the information from operators. She also held the view that OFTA should critically re-examine its role and responsibilities, and come up with a performance pledge in this regard.

82. Noting members' concern, DDG/Tel explained that it was not uncommon to have cable damages which occasionally caused some disruptions to Internet service. As such, an assessment of the situation and an appraisal of the extent of the damage based on the information provided by the operators was necessary to determine whether the situation warranted a public alert. DDG/Tel assured members that in the event of outages that had significant and territory-wide implications, OFTA would promptly inform the public and provide guidance where necessary. In respect of the Incident, he highlighted the fact that submarine cable damages had occurred at different times after the initial earthquake at around 8:30 pm on 26 December 2006 and that significant impact on external telecommunication services of Hong Kong did not occur until the early hours of 27 December 2006 when a substantial proportion of the diverted routes was also disrupted. As such, after receiving reports from the operators on the scale of the outage in the late afternoon of 27 December 2006, OFTA had immediately updated the electronic media at 5:30 pm on the same day.

83. The Chairman was unconvinced. He pointed out that from consumers' perspective, their utmost concern was whether and if so, when normal services would be resumed as well as the progress of restoration work, regardless of how many cables were damaged and whether OFTA had been informed promptly by the operators. He stressed that members' concern expressed at the January meeting was that OFTA, being the regulator, had not immediately notified the public of the outage and an announcement was not made until 5:30 pm on 27 December 2006, which was 21 hours after the initial earthquake around 8:30 pm on 26 December 2006.

84. Deputy Secretary for Commerce, Industry and Technology (DS/CIT) explained that as the reporting of the outage of submarine cable systems was not required under the reporting mechanism during the time of the Incident, OFTA had not received any reports from the operators about the impact of cable damages on the telecommunications services. With the improvement in the new reporting mechanism for Internet service outage, however, OFTA would be able to undertake prompt assessment of the extent of damage and make timely notification to the public as appropriate in future.

85. The Chairman did not subscribe to the Administration's response. He remarked that the Incident had revealed OFTA's incapability to make appropriate and timely response in disastrous events, and OFTA had also failed to address members' concern as to provide a satisfactory account of the specific measures and contingency plan to be put in place during emergency in future such as Internet/IDD service failures, etc. He requested the Administration to provide after the meeting a written submission detailing the contingency plan to be adopted by OFTA, and the dissemination of information to the public, users in particular, in the event of similar emergency in future.

Assistance to SMEs

86. Ms Emily LAU expressed grave concern about the impact of the Incident on SMEs which had all along been quite reluctant to migrate to e-business due to various reasons/difficulties. Although OFTA had held discussions with SMEs to discuss their difficulties and needs, she doubted whether this would be of any real help to SMEs. She asked whether the Administration had any information and figures on the damages and losses that the Incident had caused to SMEs. She also sought elaboration on the specific measures taken by the Administration to ascertain the losses SMEs had suffered in the Incident and concrete ways to address their needs if similar outages occurred in future.

87. DDG/Tel replied that the extent of damages and losses suffered by SMEs could not be quantified as the industry had not been able to provide the relevant information in this regard. Nevertheless, OFTA, in collaboration with OGCIO, were working on a series of measures to help SMEs better cope with similar emergency in future, including the publication of guidelines on business continuity planning and incident response in case of emergency, etc. SMEs had also been advised on how to improve communication links with their business partners and on service agreement terms to be entered with ISPs so as to manage business continuity during adverse events in future.

88. Ms Emily LAU was disappointed that apart from issuing guidelines, the Administration had not been proactive enough in ascertaining the impact of the Incident on the business operation of SMEs, and in gathering the necessary information and statistics on the damages and losses suffered by SMEs. She questioned whether the Administration had any real intention of rendering assistance to SMEs that were affected by the Incident.

Way forward

89. In conclusion, the Chairman said he was disappointed that the Administration/OFTA had not fully addressed members' concerns raised at the January meeting. OFTA were requested to provide after the meeting a written
Admin submission on OFTA's contingency plan in response to emergency and on its dissemination of information to the public in the event of disruptions in IDD and
Admin Internet services, etc. The Administration was also requested to provide information on the damages and losses suffered by SMEs as a result of the Incident and on any specific measures which would be taken by the Administration to help SMEs impacted by the Internet outage during the present Incident and in future. The Chairman said that subject to the information provided by the
Clerk Administration/OFTA, the Panel might re-visit the subject and might consider inviting deputations, including the Consumer Council as suggested by Mr Albert CHAN, to present views on the subject if necessary.

VII. Any other business

90. The Chairman reminded members that a special meeting had been scheduled for 17 May 2007 (Thursday), from 2:30 pm to 4:30 pm in Conference Room A to discuss the report issued by the Committee on Review of Public Service Broadcasting (the Review Committee) and other related issues. Representatives of the Review Committee, the Administration and all other Hon Members of Legislative Council had been invited to attend the special meeting.

91. There being no other business, the meeting ended at 1:30 pm.

Council Business Division 1
Legislative Council Secretariat
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