

立法會
Legislative Council

LC Paper No. CB(1)2047/06-07

Ref. : CB1/PL/ITB

**Report of the Panel on Information Technology and Broadcasting
for submission to the Legislative Council**

Purpose

This report gives an account of the work of the Panel on Information Technology and Broadcasting during the 2006-2007 session of the Legislative Council (LegCo). It will be tabled at the Council meeting on 11 July 2007 in accordance with Rule 77(14) of the Rules of Procedure of the Council.

The Panel

2. The Panel was formed by a resolution passed by the Council on 8 July 1998 and as amended on 20 December 2000 for the purpose of monitoring and examining Government policies and issues of public concern relating to information technology, telecommunications, broadcasting and film services. The terms of reference of the Panel are at **Appendix I**.

3. The Panel comprises ten members. Hon Albert Jinghan CHENG and Hon SIN Chung-kai were elected Chairman and Deputy Chairman of the Panel respectively. A membership list of the Panel is at **Appendix II**.

Major work

Telecommunications disruptions caused by earthquake damage to undersea cables

4. Subsequent to the earthquakes off Taiwan on 26 and 27 December 2006 which had resulted in severe telecommunications disruptions in Hong Kong, the Panel convened a meeting with the Administration and deputations to follow up on the impact of the incident, and exchanged views with the latter on the restoration capabilities of local operators as compared with those in the neighbouring regions, as well as the contingency measures to be drawn up. The Panel was pleased to note that the Office of the Telecommunications Authority

(OFTA) had, in the wake of the incident, immediately established working groups with the industry to review and improve the existing outage reporting mechanisms. New guidelines were formulated for reporting relevant outages in future with a view to strengthening communications and co-ordination between the operators and OFTA. Nevertheless, members considered OFTA's failure to take initiative during the incident in making early notification and timely dissemination of information to the public to alleviate public anxiety highly undesirable. OFTA was urged to re-examine its role and responsibilities, and to report to the Panel its contingency plan for dissemination of information to the public in the event of similar emergency in future.

5. Some members were particularly concerned that small and medium-sized enterprises (SMEs) had suffered considerable losses during the incident. The Administration advised that the actual 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, in response to members' urge for proactive assistance to SMEs, the Administration had drawn up a series of measures to help SMEs better cope with similar emergency in future, which included publication of guidelines on business continuity planning and incident response in case of emergency. SMEs had also been advised on how to improve communication links with their business partners and on service agreement terms to be entered with Internet service providers so as to manage business continuity during adverse events in future.

Regulatory frameworks for telecommunications carrier licensee and domestic pay television programme service licensee

6. The Panel was always keen to ensure that adequate safeguards were in place to uphold fair competition in the telecommunications and broadcasting markets. Members noted that there was regulatory mechanism in the Telecommunications Ordinance (Cap. 106) to ensure that a change in relation to a carrier licensee would not have the effect of substantially lessening competition in the telecommunications market. Moreover, there was also restriction on cross-media ownership in relation to a domestic pay television programme service licensee as provided under the Broadcasting Ordinance (Cap. 562).

7. Arising from the possible change of shareholding of PCCW Limited, a telecommunications carrier licensee, which involved the proposed sale by Pacific Century Regional Developments Ltd (PCRD) of its shares in PCCW to Fiorlatte Limited and the latter's on-sale arrangements with a Spanish company and two charitable foundations founded by a close relative of the Chairman and director of PCCW, the Panel exchanged views with the Administration on the likely impact of such a change, if realized, on the fair competition in the telecommunications market. Members also sought clarification from the Administration on the circumstances under which the Telecommunications Authority would initiate an investigation under the Telecommunications Ordinance to see if the change would cast adverse effect on the fair competition of the telecommunications market. The Panel also noted that under the existing

policy, there was no foreign ownership restriction over telecommunication licensees under the Telecommunications Ordinance, and the Administration would not interfere with the business activities of commercial organizations and would only endeavour to maintain Hong Kong as an open market.

8. Given that the Chairman and director of PCCW, whose wholly-owned subsidiary was a domestic pay television programme service licensee, had reportedly been exercising control over a local newspaper, members also sought explanation from the Administration on whether the restriction on cross-media ownership had been breached, the likely impact it would have on the fair competition of the broadcasting market and the action to be taken. The Panel noted from the Administration that the Broadcasting Authority (BA) had already taken action under the Broadcasting Ordinance to require the parties concerned to provide the requisite information, and a thorough investigation would be made into the case. As the issue in question had aroused wide public concern, the Panel requested the Administration to provide detailed explanation if BA, after due investigation, decided not to take action against the parties concerned.

Review on public service broadcasting

9. In view of the Government's appointment of the Committee on Review of Public Service Broadcasting in Hong Kong (the Review Committee) in January 2006 to undertake a fundamental and critical review of public service broadcasting (PSB) and its future development, the Panel considered it necessary to conduct a study on the development of PSB in Hong Kong. Following an overseas duty visit to Canada, the United States and the United Kingdom where there had been marked developments in their PSB systems, the Panel published a report in October 2006 on its observations and recommendations on the way forward for PSB in Hong Kong with a view to providing useful reference on how PSB could be taken forward in Hong Kong.

10. Subsequent to the submission of the Report to the Chief Executive by the Review Committee on 28 March 2007, the Panel held a meeting to exchange views with the Review Committee on its findings of the Report. While appreciating the Review Committee's time and effort in conducting the review and compiling the Report which set out the governance structure, accountability measures, funding arrangements and programming for a new public broadcaster to be set up in Hong Kong, members expressed grave concern on the Review Committee's recommendation against the transformation of the Radio Television Hong Kong (RTHK) into a public broadcaster. Members generally considered that without conducting any detailed analysis of the pros and cons of the transformation, the Review Committee should not lightly come up with such a recommendation and the public was also not presented with all possible choices including the transformation option for objective deliberation. The Review Committee advised that its mandate was to review and make recommendations on PSB but not to review the role and future of RTHK. Nevertheless, in examining whether there was a genuine need for PSB in Hong Kong and how best to deliver PSB services, the issue on the role of RTHK would inevitably

come up as it was the only publicly-funded broadcaster in Hong Kong. The Review Committee therefore did examine in detail the option of transforming RTHK into a public broadcaster, but noted that the requisite change in RTHK's status, structure and entrenched corporate culture as a Government department would bring about practical problems and difficulties. The transformation of RTHK into a new public broadcaster was therefore not recommended. The Review Committee highlighted that its recommendation was only a proposal put forth for consideration by the Government and the public.

11. Noting that the Administration would, in the light of the Review Committee's recommendations, issue a public consultation paper setting out the Administration's views on the way forward, members were keen to ensure that the option of RTHK's transformation into a public broadcaster would also be included in the consultation paper to gauge the views of the public on this issue. The Administration assured the Panel that the Review Committee's recommendations did not represent the Government's views on PSB. The Government would, after a thorough study of the Review Committee's Report and having regard to all other relevant reference materials including the report issued by the Panel, views expressed by the public and LegCo members, formulate its own views on the way forward for public consultation in the second half of 2007. The Panel would continue to follow up the development of PSB in Hong Kong.

Sanctions imposed on broadcast programmes

12. The issues of freedom of press and creativity, as well as editorial independence, received serious attention by the Panel. Following the sanctions imposed by BA on a programme produced by RTHK and broadcast on television, as well as another film broadcast on television, the Panel discussed with BA, the Administration and deputations on the likely impact such sanctions would have on the core values of Hong Kong, viz. the public's freedom and rights. Some members were particularly concerned that the sanctions imposed by BA had reflected that the membership of BA was not in line with the standards of morality, decency and propriety that were generally accepted by the majority of the community. According to BA, while BA welcomed and encouraged broadcasters to produce current affairs programmes covering various social issues, including controversial subjects, sanction was imposed on the RTHK's programme because the programme was a factual programme dealing with matters of public policy and controversial issues of public importance in Hong Kong, and should therefore be subject to the impartiality rule under the codes of practice RTHK had agreed to comply with. On the film broadcast on television, the Panel noted that it was due to man-made errors that an unedited version of the film in which the foul language was not suitably edited was broadcast during family viewing hours and hence the sanction imposed. To address members' concern on the representativeness of BA, the Administration advised that as new appointment would be made by the CE on an annual basis upon the expiry of the term of office of existing members, consideration could be taken at that juncture on whether the composition of BA should be changed to better reflect the

interests of the community including those of the minority groups, as well as enhancing BA's representativeness. On the concern that BA's sanctions had given rise to speculation that the Government attempted to restrain people's behaviour through setting rigid values and moral standards, the Administration assured the Panel that the Government would not interfere with the operation of BA or request it to adopt the Government's line. The Panel was also assured that there was no question of the Government's interference with RTHK's programming arrangements or its editorial independence as enshrined in the Framework Agreement signed between the Secretary for Commerce, Industry and Technology and the Director of Broadcasting.

Implementation of digital terrestrial television

13. The Panel was briefed on the progress of the implementation of digital terrestrial television (DTT) in Hong Kong. Members were pleased to note that the two domestic free television programme service licensees, i.e. Asia Television Ltd (ATV) and Television Broadcasts Ltd (TVB), would commence DTT broadcasting in the last quarter of 2007, with the adoption of the national standard of the Mainland as the technical standard for transmission and reception of DTT services in Hong Kong. Some members were concerned about the availability of set-top boxes at affordable price for reception of DTT services. The Administration advised that initially DTT set-top boxes for Hong Kong would probably have a low price but certainly with less variety as compared with those for overseas economies when DTT broadcasting was first launched. Yet, the adoption of the national standard with a vast market of the Mainland would lead to mass production of set-top boxes which would bring further choices and lower prices for local users. To disseminate information about DTT implementation and to encourage DTT take-up, the Panel noted that the Administration would co-ordinate publicity efforts with the Consumer Council, ATV and TVB to launch a comprehensive promotion and publicity programme nearer the time of the launch of DTT to raise public awareness and to provide the public with information about requirements for and availability of receiver products to enable consumers to make informed purchase choice.

14. Noting that analogue broadcasting would be switched off in 2012, some members expressed grave concern that such an arrangement might deprive certain households from access to free television programme if they could not afford to purchase DTT receivers. They considered that instead of sticking to a deadline for complete digital switchover, the Government could consider using the DTT uptake rate, i.e., the proportion of population/households that had taken up DTT, to determine when to switch off analogue broadcasting. The Administration took on board members' suggestion, and undertook to make a decision on the timing of the analogue switch-off with due regard to the world trend, and on the basis of objective criteria and statistics including the extent of DTT coverage, consumers' DTT readiness, as well as the degree of public acceptance as indicated by the extent of DTT uptake.

Cyberport

15. In reviewing the progress of the Cyberport Project with the Administration, the Panel noted that the Anchor Tenant (A-T) which took up around one-third of the total lettable area in the Arcade was not selected through open tendering. Concern was raised on the procedures for identifying the A-T. The Administration advised that the A-T was appointed as a result of an extensive search both locally and overseas. By mobilizing its extensive network of partners and suppliers in the information technology field, the A-T was expected to help attract quality tenants to the Cyberport and promote the Cyberport to bring in new applicants. The Panel also exchanged views with the Administration on the favourable leasing terms and incentives in the form of rent-free periods offered to tenants of the Cyberport. Members noted that the terms of the leases were in line with prudent commercial principles, normal commercial practice and prevailing market conditions. Favourable leasing conditions and rent-free periods were offered to attract tenants to set up and stay in the Cyberport.

16. On the financial performance of the Cyberport Project, the Panel noted that there was a significant increase in turnover to \$188 million for the year ended March 2006 as compared with \$136 million for 2005 and \$65 million for 2004. Meanwhile, the Panel would continue to monitor the progress of the Cyberport Project periodically.

Pilot e-procurement project

17. The Panel was briefed on the Administration's funding proposal for the implementation of a pilot e-Procurement programme (pilot programme) which aimed to automate and integrate the procurement processes within the Government to enhance transparency, efficiency and cost-effectiveness. While expressing support for the Administration's e-Procurement initiative, members noted that e-Procurement had already been implemented in the private sector with e-invoicing as part of the e-Procurement process. The Administration advised that as the implementation of e-invoicing would require the presence of the necessary backend accounting or finance computer system at the suppliers' end, an incremental approach was proposed to allow gradual migration to e-Procurement by suppliers, particularly SMEs. At the Panel's request, the Administration undertook to explore the implementation of e-invoicing at the next stage when the information technology capabilities of SME suppliers were raised after implementation of the pilot programme.

18. On the scale of the pilot programme, members noted that only a limited number of departments would participate in the pilot programme. Given that the implementation of e-Procurement could bring about financial savings arising from cost reduction as in the case of overseas experience, members urged the Administration to expand the scale of the pilot programme with a view to expediting the service-wide implementation of e-Procurement in the Government.

Concern was also raised on the employment of contract staff for implementation of the pilot programme and hence the loss of experience when those contract staff left the Government upon completion of their contracts. To address members' concerns, the Administration undertook to draw up comprehensive guidelines on e-Procurement for reference by bureaux and departments (B/Ds) and to organize workshops to provide in-service training to relevant staff of B/Ds so as to ensure that the experience learnt from the pilot programme would be shared among Government users. At members' request, the Administration also undertook to make a comprehensive assessment on the actual benefits of the e-Procurement programme, with particular respect to SMEs' response to and their degree of participation in the programme, as well as the extent to which green procurement was adopted during the e-Procurement process.

19. The funding proposal was approved by the Finance Committee on 26 January 2007.

Wi-Fi facilities

20. The Panel welcomed the Administration's proposal to provide Wi-Fi facilities free of charge at major government premises with high public patronage such as public libraries, museums, large parks and etc, as this could offer convenience and affordable Internet access to the public, as well as facilitating visitors in their business and leisure activities during their stay in Hong Kong which would help project a positive image of Hong Kong and uphold its status as a leading digital city. Nevertheless, members reminded the Administration that in implementing the proposed Wi-Fi Programme, it should be mindful of avoiding competition with the private sector. The Administration pointed out that in implementing the proposed 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, and the Government would also be subject to charges to be levied by commercial service providers. As such, there was no question of competition with the private sector.

21. Having regard to the huge amount of public fund to be involved in the proposed Wi-Fi Programme, some members were keen to ensure that measures would be put in place for assessing the cost-effectiveness of the Programme. In this respect, the Panel noted that a Programme Steering Committee would be set up to monitor the implementation of the Programme, as well as assessing its effectiveness.

22. The funding proposal was approved by the Finance Committee on 25 May 2007, and the Panel noted that tendering procedures would begin in mid-2007 for commencement of implementation by end 2007.

Support measures for the film industry

23. The Panel exchanged views with the Administration and deputations on

a financial proposal to inject \$300 million into the existing Film Development Fund (FDF) for financing small-to-medium budget film productions. Members generally supported the Government's commitment to assist the local film industry, in particular small-to-medium sized film productions, as they considered that such an arrangement 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. Some members also considered that a strong local film industry would benefit Hong Kong's tourism industry and hence the contribution to the overall economy of Hong Kong.

24. The Panel noted with concern that one of the proposed eligibility and assessment criteria for financing film productions made under FDF was that applications involving scripts which were likely to result in films that portrayed disproportionately sexuality and violence, etc, would not normally be considered. Despite the Administration's explanation that the purpose of the proposed criteria was to draw film production companies' attention to the factors to be considered and the need to comply with the relevant provisions under the Film Censorship Ordinance (Cap. 392) for commercial theatrical release, members remained concerned that this might give rise to content censorship or script restrictions. To allay members' concern, the Administration undertook to suitably revise the criteria to ensure that creativity would not be stifled.

25. On the proposal to expand the existing Film Development Committee to form a high-level consultative body of Hong Kong Film Development Council (FDC) which would be entrusted with broader and more film-related advisory and executive duties, members were pleased to note that the industry generally accepted the make-up of FDC as the membership of which had included representatives from the film industry to provide balanced views. However, some members had reservation on the creation of a permanent high ranking D2 post for heading the Secretariat of FDC which was only an advisory but not a statutory body.

26. The Establishment Subcommittee discussed the staffing proposal at the meeting on 13 June 2007. As some Members also expressed concern over the justifications of the staffing proposal, the Administration subsequently revised the proposal to create a non-civil service position of Secretary-General of FDC at the equivalent rank of D2. The staffing proposal and the financial proposal for injection of government fund to assist the sustainable development of the local film industry were approved by the Finance Committee on 6 July 2007.

27. From October 2006 to end June 2007, the Panel held a total of 14 meetings.

Panel on Information Technology and Broadcasting

Terms of Reference

1. To monitor and examine Government policies and issues of public concern relating to information technology, telecommunications, broadcasting and film services.
2. To provide a forum for the exchange and dissemination of views on the above policy matters.
3. To receive briefings and to formulate views on any major legislative or financial proposals in respect of the above policy areas prior to their formal introduction to the Council or Finance Committee.
4. To monitor and examine, to the extent it considers necessary, the above policy matters referred to it by a member of the Panel or by the House Committee.
5. To make reports to the Council or to the House Committee as required by the Rules of Procedure.

Panel on Information Technology and Broadcasting

Membership list for 2006-2007 session

Chairman	Hon Albert Jinghan CHENG, JP
Deputy Chairman	Hon SIN Chung-kai, SBS, JP
Members	Hon Fred LI Wah-ming, JP Dr Hon LUI Ming-wah, SBS, JP Hon Jasper TSANG Yok-sing, GBS, JP Hon Howard YOUNG, SBS, JP Hon Emily LAU Wai-hing, JP Hon Timothy FOK Tsun-ting, GBS, JP Hon Albert CHAN Wai-yip Hon Ronny TONG Ka-wah, SC (Total: 10 Members)
Clerk	Miss Erin TSANG
Legal Adviser	Ms Connie FUNG
Date	12 October 2006