

30 May 2015

By Email to: bc_51_14@legco.gov.hk

Hon IP Kwok-him, GBS, JP

Chairman

Bills Committee on Interception of Communications and Surveillance (Amendment)

Bill 2015

Dear Hon IP,

**Views from Hong Kong Internet Service Providers Association on the
Interception of Communications and Surveillance (Amendment) Bill 2015**

It came to our attention that the Bills Committee on Interception of Communications and Surveillance (Amendment) Bill 2015 ('Bills Committee') is currently reviewing the Bill.

We are aware that in the meeting of 2 May 2015 and 11 May 2015, members of the Bills Committee have raised a number of concerns regarding the scope of the ICSO with relation to Internet communications, as well as the Law Enforcement Agencies' (LEAs) requests of data from Internet Service Providers (ISPs) for law enforcement and investigation purposes.

The HKISPA would like to take this opportunity to respond to this matter that relates to the proper operation of ISPs and the privacy of our customers. We would like to submit the following observations, as reflected by some of our members, to the Administration and members of the Bills Committee for consideration.

- 1 According to the Section 2(1), "intercepting act" means the inspection of some or all of the contents of the communication, in the course of its transmission by a postal service or by a telecommunications system, by a person other than its sender or intended recipient;
- 2 Internet communications content, during its course of transmission could be stored in data centers and hard disks operated by ISPs, and can be obtained by LEAs through making requests for user information for the purpose of crime investigation.

- 3 In most cases, the hard disks used in operation of ISPs contain massive amount of data of serving more than one customer. These data includes web site program files, web site contents, databases, user upload files, and instant messaging data and email contents.
- 4 Some of our members reported that LEAs at times seize hardware from data centers of ISPs with a court search warrant. Currently, the LEAs may insist to take away the hard disks rather than making copies of the data contained in the hard disks. The seizure of such storage devices, such as hard disks, directly impacts the operation of the affected ISPs and could also expose the data and content that belongs to other users who are not the primary investigation target of the LEAs.
- 5 In our opinion, instant messaging are live communications operating in real time mode, email is also live communications when operated with real time Push technology.
- 6 Metadata such as user activities, IP addresses accessing the server, geographical distributions of users, online purchase activities and patterns, keyword statistics contained in communications etc can also be compiled from log files residing on hard disks.

The HKISPA therefore would like to urge the Administration and the Bills Committee to take into consideration of the above facts when reviewing the Interception of Communications and Surveillance (Amendment) Bill 2015.

Thank you for your kind attention.



Lento Yip
Chairman, Hong Kong Internet Service Providers Association