

**Review of the Control of Obscene and Indecent Articles Ordinance
Meeting with the Hong Kong Association for Computer Education
and Hong Kong Information Technology Joint Council**

Summary Report

Date: 12 January 2009
Time: 5:00 p.m. – 7:00 p.m.
Venue: Lecture Theatre, 2/F, Tower B, The School of Continuing and Professional Studies of The Chinese University of Hong Kong (Mongkok Learning Centre)

Attendees:

Commerce and Economic Development Bureau

Mr Gregory So	Under Secretary for Commerce and Economic Development
Miss Amy Wong	Assistant Secretary for Commerce and Economic Development (Communications and Technology) A2

Guest speakers

Professor WONG Kam-fai	President, Hong Kong Information Technology Joint Council
Dr Samson TAM Wai-ho	Member of Legislative Council (Information Technology)
Mr CHENG Che-hung	Chairman, the Hong Kong Association for Computer Education
Mr LIU Ah-chuen	Chairman, Hong Kong Subsidized Secondary Schools Council

- I. Mr Gregory So, Under Secretary for Commerce and Economic Development introduced the consultation booklet of the Review of the Control of Obscene and Indecent Articles Ordinance (COIAO) and invited the attendees for their comments.
- II. Members expressed their overall comments on the Review of the COIAO:

- Freedom of speech and information flow is important and there is no doubt that such basic human rights should be protected. Nevertheless, freedom is not absolute and the public should be able to have reasonable expectation on the moral standard. Thus, legislation is necessary to guard this moral standard which is accepted by the general public. The regulatory system will help youngsters develop a set of correct moral values.
- Members noted that the views expressed so far are diverse. Some commented on the technical aspects whereas others on the philosophical and moral aspects. The Government should try the best to look for win-win solutions to balance the interests of different parties.
- Adults may have a set of standard of morality which could be taken as the general standard agreed by the public. Young people should be taught another set of standard of morality and this set of standard should be defined in consultation with schools and parents.

Different views are expressed in the meeting. Major comments and/or suggestions are summarised as follows:

1. Definitions

- The current definition is unclear and should be more clearly defined. Articles that arouse readers/audience to think or fantasise about sexual behaviour should be regulated under the definition. Extreme pornography such as bestiality should be regulated.
- Agreed with the proposal of expanding the existing definition, so that the Obscene Articles Tribunal (OAT) may make more consistent classification with clearer provisions.
- Obscenity and indecency should include rape, violence, 'abnormal' sexual behaviour, etc. Some opined that even adults should not be exposed to such materials.
- As the definition of obscenity and indecency changes with time, some suggested that the decision should be made by

the magistrate and adjudicators. Clearer guidelines can be provided by the magistrate and such guidelines can be modified.

2. Adjudication System

- Some agreed to improve the existing OAT by increasing (say doubling) the number of adjudicators at interim and full hearings. Some also suggested enlarging the panel of adjudicators so that the panel may represent the general public.
- Some agreed with the proposal to separate the administrative and judicial function of the OAT.
- Some agreed that adopting the jury system or allowing people from different sectors to join the adjudication would be a better solution than the current OAT but some pointed out that further study of such options is necessary.
- More resources should be allocated to the revamped OAT and it should come up with a set of improvement measures to deal with a large number of cases.
- Some suggested that experts should be recruited to classify the articles. Representatives of the education sector, the social work sector and the youth organisations could be recruited and they could give professional advice in the classification. Experts and concerned groups should share the goal to allow youngsters to grow healthily.
- Other suggestions include the following – the Government should draw reference to adjudication systems of other countries; adjudicators should not include persons aged below 18; publicity for recruitment of adjudicators should be increased.

3. Classification System

- Some supported the subdivision of Class II into Classes IIA and IIB as the difference between young persons aged 12 and aged 17 is significant. Therefore, it is suggested that the features of the four categories should be clearly

stated in the legislation.

- Reference is drawn to the Film Censorship Ordinance. It is suggested that the Government should consider adopting the film classification system to articles regulated under the COIAO. The film classification criteria are relatively clear when compared to those factors stated in the COIAO.

4. New Forms of Media

- “Public” is difficult to define in the world of Internet. Further discussion is needed on whether regulation of mass email is required and whether it is feasible and practical. One suggested that distribution to over 10 persons on the Internet should be considered as publication. However, some considered the definition of publication on the Internet could never be defined because the world has changed and the Internet has brought people closer. Quoting the example of Facebook, one could not easily determine whether posting a photo on Facebook is a form of publication.
- Some opined that it is ineffective to rely on ISPs’ self-regulatory system. Thus, they strongly support the proposal of mandatory filtering option provided by the ISPs. Parents are free to choose whether to use the filtering service provided by ISPs, therefore, there should not be any freedom or human rights implication. On the contrary, some considered filtering is ineffective and impossible to be carried out by the ISPs. The problem of over-blocking may frequently occur.
- For printed materials, indecent materials are wrapped in wrappers. It is suggested that similar system should apply to the Internet so as to assist parents in choosing materials suitable for their children to read.
- Some suggested the Government promote the use of filtering services and/or filtering software. It is also suggested that the Government may rate the filtering software in the market and provide more information for parents to choose among the available software.

- Content providers or platform providers should have the responsibility to remove inappropriate materials. A reporting system could be set up so that platform providers can report to the enforcement agencies when they spot some problematic content. Some argued that as the liability is now undefined, the IT sector would not agree to more regulatory measures. It is also pointed out that small ISPs might not survive if they are required to implement more regulatory measures.

5. Enforcement

- Some suggested that the current complaint-oriented approach is insufficient and active monitoring is necessary.

6. Penalty

- Penalty for repeat offenders is considered relatively low.

7. Publicity and Public Education

- As compared with the publicity of tobacco ban, the effort in COIAO is relatively low. Family, school and the media should work hand in hand to educate the younger generation the correct attitude and moral standards.
- Public education should be strengthened.
- Sex education does not require video clips of sexual intercourse. Some suggested that sex education should not be too early, that is, not before the stage of puberty.
- Young people often have the wrong impression that they can enjoy absolute freedom on the Internet and that there is no restriction. Education is needed to correct this misconception. The public should be aware that the law also applies to the Internet environment.
- Parents' knowledge on computer operation is limited. Assistance should be provided to parents so that they are guided on how to deal with children with high computer

literacy.