

Response to the Review of the Control of Obscene and Indecent Articles Ordinance (COIAO)

1. We welcome the Government's review of the Control of Obscene and Indecent Articles Ordinance, to clarify certain legal and operational points of concerns, as well as to look at how best to handle the new media. We believe that the law should be established with a view to foster technological innovation and development, and should not be in any way inhibiting technology.
2. Our members, including Internet service providers (ISPs), online service providers (OSPs) and technology providers, are generally in favor of the co-regulation approach. We believe the previous framework as established between TELA and the Hong Kong Internet Service Providers Association (HKISPA) about ten years ago has been largely effective in achieving its objective of handling obscene and indecent articles hosted on local servers on the Internet, and it is a good example of this approach. We believe the Government and the industry can build on top of such past cooperation. We are in favor of a content regulation regime that is built on shared responsibility, by providing the users with tools and the training needed for them to take up their own responsibility personally.
3. In general, we believe that legislations that affect information technology, including the new media and the Internet, must be kept to be technologically neutral, as a matter of principle. Therefore, we are against any attempt to single out the Internet or other forms of the new media to be regulated on its own, unless what is already applied under specific ordinances such as the Telecommunications Ordinance.
4. Our members, especially ISPs and telecommunications service providers, are particularly concerned about and against the proposal of introducing mandatory filtering on the server side of the ISPs, not only because it has been proven to be ineffective and inaccurate, but also because of the numerous legal, operational and procedural issues it will create, that will cause great harm to the industry's wellbeing as well as inhibiting innovative activities in Hong Kong.
5. As the Government has expressed it will not maintain the black list for ISPs to filter, ISPs if mandated to perform server-side filtering will be subjected to numerous risks and serious exposures from its customers' complaints, and possible legal liabilities as well. Furthermore, ISPs using their own judgment to determine what to block or not may be considered to be in breach of existing Telecommunications Ordinance Section 24(1c) which applies to the interception of messages, and possibly also the Personal Data (Privacy) Ordinance.
6. We believe that children and family safety on the Internet – just as over other media or in the physical world – is, however, of important concern to society, and with the high penetration and utilization of IT, the Internet and mobile technology in Hong Kong, it is important to make the Internet safe for children, and let parents have the trust needed for their family to use the new media. We believe that a combined approach of cooperation between all the stakeholders, including our industry, is needed, making use of technology itself, plus proper guidance and education, along with effective law enforcement and public awareness. Legislations usually take the longest and are not effective in being up-to-date with technology and social development, and should only be taken as a last resort.



7. The Government must also be extremely sensitive about the impact of a change in the policy in this area may have on Hong Kong's international image, to consumers and investors around the world, with respect to Internet regulation and even the sensitive issue of censorship. Our Government must act with restraint and be aware of the potential damage to Hong Kong's image and ratings on freedom of information and expression, which is vital for not just the IT, telecommunications and media industries, but also Hong Kong's economy as a whole.
8. We believe that the time is mature now for Hong Kong to look into games rating, and try to form a co-regulation regime with the industry, for the various forms of gaming on the market. Our Federation will be keen to support and work with the Government in this effort. We believe that there are references we can draw on from overseas experience to form a scheme suitable for Hong Kong and begin to collect local experience in countering this problem. The rating system should be voluntary in the beginning but heavy effort must be put into public education and awareness, for parents, teachers and youngsters alike. We also believe that the local system must be harmonized and consistent with other major markets, so as to make sure Hong Kong's development potentials in the growing electronic and online gaming market are not hampered in the process.
9. The Hong Kong Information Technology Federation (HKITF) was founded in 1980 as a non-profit, non-political trade association to provide a forum in which the IT-related business in Hong Kong can work together for the benefit of the industry and to maintain a high level of business practice amongst the members. Over the years, HKITF has developed into a dynamic and highly respected organization with over 300 members.

Hong Kong Information Technology Federation
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