For the attention of:

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To whom it may concern:

2007 Digital 21 Strategy Public Consultation

The Hong Kong Information Technology Federation (HKITF) is a non-profit association which has the objective of promoting IT business in Hong Kong. HKITF provides a forum for IT-related businesses in Hong Kong to work together, and also to network with international IT companies. Over the years, HKITF has developed into a dynamic and highly respected organization with over 300 members and works closely with the Government to develop Hong Kong's IT industry. In recent years, HKITF has advised the Government in detail on policy matters, including anti-spam, intellectual property rights and IT industry development.

Please find HKITF's attached comments on the Digital 21 Strategy document. For ease of use, these comments have been structured with reference to the Government's own stated goals and objectives.

1.   Facilitating a Digital Economy

Hong Kong must strive to retain its position as a world leader in technology, and the Government and industry must do all that they can to assist with this objective. In HKITF's view, the Government needs to ensure that Hong Kong offers intellectual property (IP) rights owners and creators sufficient legal protection, and that it properly incentivizes them to produce such items both for, and in, Hong Kong. If Hong Kong becomes seen as a jurisdiction that fails to protect IP, then it may see creators of IP becoming more reluctant to develop and use their technology here.

It is therefore vital that copyright law in Hong Kong continues to be updated to stay in line with other international jurisdictions (such as Europe and the US). Together with this, the Government must ensure that IP infringements are properly tackled, and that the relevant law enforcement agencies (such as customs and the police) are properly equipped to deal with infringers. In the past, Hong Kong has shown leadership in relation to protecting IP rights through education campaigns, legislation, and law enforcement action against infringers. However, recent studies have shown that the use of unlicensed software by businesses in Hong Kong has been increasing. Such trends are a concern and must be reversed. In recent years it has been shown that the reduction in piracy throughout Asia has resulted in a measurable increase in the GDP of those countries. Therefore, reducing piracy in Hong Kong would without doubt have a positive effect on the territory with the creation of more jobs in the ICT industry. This shows that an initial investment by the Government in creating a tight but workable legal framework will ultimately pay dividends for the economy.

The recent Copyright (Amendment) Bill 2006 has taken some steps towards giving greater protection to IP in Hong Kong. We believe that the upcoming review of copyright protection in the digital

environment will take further important steps in this regard. We hope that the new laws will include bringing copyright laws up to date to be able to properly deal with the challenges posed by the Internet. This includes specifying how copyrighted works can be legally communicated to the public as part of interactive and non-interactive digital broadcasting, webcasting and cool-streaming, as these issues are currently causing some confusion in the industry. It might also be worthwhile for the Government to consider enacting "take down provisions" as have been introduced in the US, which we think will also be beneficial in Hong Kong. In addition to these suggestions, it is important that any laws enacted should be properly enforced with sufficient legal penalties for infringements, since otherwise their effectiveness will be significantly reduced.

We are also very concerned about the upcoming digital copyright consultation. We maintain that the Government must maintain the appropriate balance between the right owners and the Internet users, and at the same time, Internet service providers and telecom operators should not burdened with unnecessary costs and liabilities. In the end, we believe that the user privacy should be given the highest priority. We also believe that the current technologically neutral copyright regime has been reasonable and has served the overall balance of interests of the various stakeholders well.

We hope that the Government will ensure that the strengthening of the current legal framework of IP protection is seen as an important goal of the Digital 21 Strategy, and one that is necessary to ensure Hong Kong's long-term ICT future.

2. Promoting Advanced Technology and Innovation

HKITF encourages the Government to take further steps to position Hong Kong as an economy where new technologies can thrive, and to cooperate with international ICT developers in this regard. We believe that such an investment would be beneficial to persuade developers to further invest in Hong Kong.

While the Government has been an early adopter of new technology and has actively promoted investment in Hong Kong's ICT infrastructure, it is important that the Government continues to invest in ICT, including all areas of government e-services, and foster an environment in which the selection of ICT is made according to market forces and is based upon the principle of neutrality. ICT should only ever be selected on its merits. People must be permitted to make the decision that is best for them when considering all pertinent factors, including price, solution and fit.

If the Government were to decide to choose certain types of ICT that it supported and inhibit the use of other technologies, this would decrease market efficiency and ultimately reduce consumer choice. Technology producers might then start to avoid Hong Kong with their products. Another danger is that because it is very difficult to predict what technology will prevail in the long-term in the ICT industry, the Government could choose to support ICT which ultimately becomes obsolete. The costs of this would be paid for by Hong Kong's industries and consumers with higher prices and less choice. Emerging solutions must be given the chance to develop and flourish without heavy-handed regulation. The best thing that any government can do is to enable as wide a choice of ICT for consumers as possible to ensure that the best solutions always lead the market.

The Government should also take note that small and medium businesses ("SMEs") have a number of factors that they will take into account in deciding what solution is the right one for their situation. Often it is not just the initial acquisition costs of solutions that SMEs consider in the long run, but it is also the total costs of ownership. In relation to software solutions, this means considering both the initial software license fees as well as the long term support and maintenance and training costs. We consider that the businesses themselves are best placed to take these into account when deciding

which solution fits them best. The Government should not attempt to make a decision for them since it cannot do so efficiently. On the other hand, the Government should continue to explore ways to assist SMEs in their uptake of ICT applications, which is an area that Hong Kong has been lagging behind our regional competition.

Today, ICT is converging at a rapid rate and there needs to be a clear focus on ensuring that different ICT solutions are interoperable and that there are clear technology standards. However, once again we consider that it is not the role of the Government to set these standards or to ensure interoperability itself. The market will take steps in this direction since it is ultimately in both the industry's and the consumer's interest that this takes place. The Government should not mandate specific ICT standards or force licensing requirements to achieve interoperability, and any standards need to be voluntarily agreed between ICT developers. Mandatory policies would stifle creativity and inventiveness in the industry.

HKITF believes that the Government should be more focused on the result (i.e. that of having a forward-looking ICT friendly economy) rather than the method of reaching it (i.e. through unnecessary regulation on standards). The Government should therefore take all possible steps to remain technology neutral when making its decisions, and facilitate new solutions rather than inhibit them.

We also believe it would benefit Hong Kong if the Government could swiftly develop a clear strategy on how it intends to encourage the adoption of new wireless technologies such as WiMax, HSDPA and mesh networking. For instance, in England the city of London recently announced its intention to create a free wireless broadband that everyone would be able to use at no cost. It saw this investment as worthwhile to facilitate business. This kind of scheme could be considered in Hong Kong, where our geographical area is much more compact and similar in size to the city of London.

3. Developing Hong Kong as a Hub for Technological Cooperation and Trade

As stated in the consultation document, Hong Kong and Mainland China are closely connected both geographically and economically. The Government needs to make sure that it taps this dual proximity and initiates programs to enable local businesses to make the most of Hong Kong's unique characteristics. It is important for the Government to continue to assist Hong Kong ICT companies to enter the Mainland market, as well as key international markets. In particular, we hope that it is important that Hong Kong companies can enjoy national treatment in Mainland China.

In order to maintain Hong Kong's competitive position, its workforce must remain highly skilled and educated. It is therefore important that the set of Specifications of Competency Standards to be developed by the Education and Manpower Bureau with the assistance of the ITAC of the ICT industry should be as wide as possible and cover as much of the ICT industry as is possible. Other initiatives in this area would also be welcomed, including the work by Hong Kong Computer Society in developing IT professional certification programs.

We would encourage the Government to take further steps in the field of security to assist with eradicating phishing, identity theft, computer viruses and worms. This would increase consumers' and businesses' confidence in transacting online. HKITF recognizes that good security depends upon many factors, including security features in ICT but also how well such features are used and updated. Education as to potential threats also increases security on the basis that to be forewarned is to be forearmed. We therefore advocate a policy of education and guidance for consumers and the industry combined with one of encouraging development of new security features (including support for companies through R&D).

The Government also needs to ensure that Hong Kong law is constantly reviewed to ensure that it continues to enable businesses to operate in a digital economy. The review to update the Electronic Transactions Ordinance in 2008 is an important step to facilitate e-commerce, but this should not be the only step taken in this regard.

The Personal Data (Privacy) Ordinance was enacted in 1997 and we consider that it must be ready for a wholesale review. Data practices in Hong Kong have changed a great deal since then, and as such, the PDPO may need to be amended to reflect these changes. We would encourage there to be further education and guidelines for the public on how to handle sensitive information and data, and consideration of whether cross-border data transfers require protection. The recent developments of the Unsolicited Electronic Messages Bill is also a positive step in making sure that Hong Kong protects consumers from unwanted electronic mail, and enables businesses to conduct their business within a regulated legal framework. Once again though, it is important that the Government educate and provide advice to businesses as senders, and consumers as recipients, of electronic messages in relation to the UEM Bill.

As discussed in section 2 of this response, the Government has an important role in advancing technology standards but should avoid policies that discourage the development and adoption of broad based standards, by either mandating standards that have not achieved broad industry support, or by reducing the economic incentives to participate in advancing such standards. Mandated standards in the technology industry can often result in freezing innovation and diminishing incentives for R&D investment, which ultimately deprives consumers of new features, increased functionality and efficiency, and possible benefits from new, lower-priced products. This prevents the market from developing as competitively as it should. Industry players should instead be encouraged to participate in the development of open, responsive and market-led standards, and to voluntarily contribute their best technology since this is in their own (and everyone else's) long-term interests.

4.   Enabling the Next Generation of Public Services

The Government has taken a number of steps in recent years to ensure that it provides services to its residents using the latest technology. As we have already mentioned above, it is important that going forward the Government expands its ICT investment at a healthy pace, and also maintains a technologically neutral approach in so doing.

Concerning the developing of the next generation of public services, we hope that the Government will move beyond the current state of One Stop Portal to adopt a more citizen-centric and people-focused approach, along the line of Web 2.0 development, so that citizens can approach Government services in the way that is most natural and friendly to them. This will also increase the level of interaction between citizens and the Government. We believe that this is a key part of enhancing the level of effective governance of the Government in this Internet age.

We welcome the Government's suggestions to promote in particular the applications in the areas of health IT and intelligent transport, as these are two areas where Hong Kong and our citizens at large will benefit the most. However, in order for these support initiatives to be successful, the Government must ensure that these initiatives are fully supported by all the Government bureaus/departments involved, and that the necessary policy directions be adopted and driven from the highest level of the Government.

We also hope that the Government will cooperate and assist local ICT companies to develop external markets for technologies and solutions developed from advances in these next generation public

services. The Government should help take the lead in coordinating with the local ICT industrym and introducing these advanced solutions to various levels of governmental users in the Mainland and even overseas.

5.   Building an Inclusive Knowledge-based Society

While there have been a number of developments in recent years that have opened up digital opportunities to more and more people (for instance, the increasing use of the Internet and the development of broadband, wireless and mobile telephony), there remains a large part of our society which is still disenfranchised from these benefits. The Government is right to focus on ensuring affordable access to the Internet as a utility service available to every Hong Kong resident. It would be inequitable for so many to be excluded from its benefits. The Government should therefore ensure that it clearly elucidates how it intends to ensure the goal of expanding the take-up of these technologies.

In connection with expanding the take-up of digital technology in Hong Kong, the Government also needs to ensure that users have the knowledge to operate these technologies effectively. Education is important in ensuring this and we would urge the Government to undertake new initiatives in this area.

We would also recommend that the Government continue to support digital inclusion initiatives and funding schemes like Digital Solidarity Fund, which has been beneficial to the community on a wide scale. We also are in support of more consistent funding support for the Fund. One possible way would be to take a percentage of the income from community resources like .hk domain names to apply to the Fund, similar to the way that Internet Society supports digital inclusion initiatives in developing countries from the proceeds of its .org domain names.

6.   Summary of Comments

HKITF has witnessed the Government take some important steps in recent years to ensure that Hong Kong remains in pole position as a digital economy, where its citizens can embrace the full benefits of technology. However, we urge the Government to help Hong Kong develop even further in a structured, yet market-driven way. Only by facilitating collaboration and industry-led developments, will the Government be maximizing Hong Kong's recognized position as the most forward-looking city in Asia.

We are grateful for this opportunity to provide our comments. We hope that you find them useful, and we look forward to receiving your response.

Yours faithfully,

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Charles Mok
Government Liaison
On behalf of HKITF