



**AmCham Hong Kong's Comments on the Hong Kong Government's  
2007 Digital 21 Strategy Public Consultation**

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To Whom It May Concern:

The American Chamber of Commerce in Hong Kong (“AmCham Hong Kong”) is a volunteer business organization that has been active since 1969 with the mission of promoting commerce between Hong Kong, mainland China and the United States of America. We are pleased to have the opportunity to assist the Hong Kong Government (the “Government”) in maintaining Hong Kong’s position as a leading digital city and think it vital that Hong Kong’s ICT policy continues to remain up-to-date and forward looking.

**1. The Protection of Intellectual Property Rights**

With the worldwide development of technology and Hong Kong’s increasing reliance upon its use, the vigorous protection of intellectual property (“IP”) rights has become vitally important to the ICT industry. This protection is necessary not only to safeguard Hong Kong’s technological creativity and innovation, but also to ensure its continued economic growth. AmCham Hong Kong commends the Government for its historically proactive efforts to protect IP rights in Hong Kong and for developing a strong IP system through legislation, enforcement and education.

However, a significant problem remains with continued IP piracy in Hong Kong, which directly threatens ICT development and therefore Hong Kong’s commercial reputation and economy. AmCham Hong Kong welcomes the introduction of the Copyright (Amendment) Bill 2006, which goes some way to strengthening IP protection in this regard, with measures to protect technological measures used by copyright owners to prevent unauthorized use of their works and providing for business end-user criminal liability, although we continue to have concerns with the exception to Section 273C (for time-shifting purposes) owing to its potential wide application to circumvent technological protection measures, including digital rights management systems (see below). We would also urge the Government to assess the necessity of the new employees’ defence and the use of the new fair dealing provisions in practice to ensure that they are operating as intended.

AmCham Hong Kong would further encourage the Government to continue its efforts to reduce the levels of IP infringement by updating the legislation in this area to take account of technological advances such as the Internet. We understand that the Government has very recently released a consultation paper on such measures and we will be reviewing it shortly. We would also, of course, underline the importance of ensuring that with any new legal developments the relevant law enforcement authorities are properly equipped to be able to ensure its effectiveness. This will facilitate the long-term development of ICT in Hong Kong and benefit the economy.

## **2. Neutrality**

AmCham Hong Kong would urge the Government to continue to respect the principles of technology neutrality and the freedom of market forces in all of its activities, and in particular those relating to sourcing hardware and software for itself in the market. ICT should only ever be chosen on cost, merit and suitability according to specific customer requirements.

Accordingly, the Government should not use its power to influence in any way consumers' choice of one technology over another. This 'free market' philosophy has always been a key element behind Hong Kong's economic success. Over-regulation can inhibit innovation and reduce the incentives to invest in research and development. We know that the Government is aware of this and will continue to promote the development of ICT based on these principles.

## **3. Interoperability**

With the rapid convergence of new technologies, interoperability between different platforms has become a key objective for ICT developers. Once again, AmCham Hong Kong would urge the Government to follow the principles of neutrality towards encouraging interoperability. The Government should not over-regulate or produce mandatory ICT standards but instead should allow solutions to develop naturally.

Developers are fully aware of the need for interoperability and we believe that the market will continue to naturally move in this direction since it is ultimately in both the industry's and the consumer's interest that this happen. The Government should facilitate this and work together with the industry to find the best solutions.

## **4. Digital Rights Management**

We note with satisfaction the commitment in the paper to put in place the infrastructure to ensure that the IP rights of software and multimedia content producers are respected and protected. Strong protection for both access and copy controls will provide an environment that will allow content producers to develop new forms of content and delivery to consumers in customized formats at varying price points. This will enrich the consumer experience and propel development of ICT enabled growth, but will only occur if content owners can be assured of adequate protection for business models. We note that this policy thrust is directly contradicted by the government's current proposal to legitimize hacker attacks on digital rights management systems in the name of protecting "time shifting." We continue to believe that the government should promote DRM infrastructure, and not adopt contradictory policy approaches when there are better alternative approaches.

## 5. Other comments

We are very pleased to see that the Government intends to continue investing in R&D and innovative work to promote ICT. We also support the Government's proposal for a more comprehensive e-government program to facilitate and expand business in Hong Kong. We believe that these actions are key in developing ICT, and they show that the Government intends to take an active role in supporting Hong Kong's use of technology.

AmCham Hong Kong believes that closer technological and economic integration with mainland China will be of great benefit to Hong Kong. The Government has an important role to play in developing new collaborative initiatives and programs for ICT with China. Hong Kong is ideally placed to facilitate business and trade between itself, China and the international market, and this key opportunity must be actively pursued.

Security has increased in importance recently with the greater worldwide reliance on ICT. Attacks that damage a country's ICT can have an enormous impact, affecting public safety, economic strength and national security. The protection of ICT is therefore vital and AmCham Hong Kong believes that the Government must establish security systems capable of preventing the majority of electronic attacks, and able to effectively respond to and mitigate those it cannot. In a similar vein, the recent Internet outages induced by the earthquake off Taiwan have clearly demonstrated the importance of building a degree of resilience and redundancy into Hong Kong's international connections; the Government should actively consider, with the industry, how this objective might be achieved.

We would therefore encourage the Government to cooperate more closely with the ICT industry in joint efforts to develop new technology and initiatives to protect Hong Kong and users from security threats. We believe that the industry can offer beneficial practical assistance and insight in this area with its expertise.

We commend the Government's efforts to provide Hong Kong's people with the full benefits of advances in ICT and taking significant steps in ensuring that ICT is widely accessible in Hong Kong. However, we believe that a key objective should be for affordable Internet access to be provided to all Hong Kong residents irrespective of their incomes. Students should be provided with greater access to ICT in their education, while companies and individuals alike should continue to be educated on the use and the benefits of ICT in all of their activities.

Yours faithfully,



Jack Maisano  
President  
**American Chamber of Commerce in Hong Kong**