

**Hong Kong Bar Association's  
Comments on Draft Practice Direction  
for Use of Text-Based Communication in Courtrooms**

The Hong Kong Bar Association (“HKBA”) refers to the letter of Judiciary dated 9th September 2013 regarding the proposed Draft Practice Direction for Use of Information Technology & Text-Based Communications in Courtrooms (“**the Draft PD**”).

HKBA is in principle supports the developments introduced by the Draft Practice Direction, but considers that there are some areas that merit clarifications.

**(A) Cellular Signals, WiFi & Bluetooth**

- A.1. HKBA notes that the Draft PD permits the “*reasonable use of text-based communications*”.
- A.2. “*Text-based communications*” can potentially take place through cellular means (e.g. Short Message Service (SMS), or Email, Instant Messaging and other text-based communications through cellular data services) as well as *via* the WiFi services that are proposed to be introduced.
- A.3. It is understood that cellular signals are not permitted within Courtrooms as they may interfere with “DARTS”. Hence, the present policy in Courtrooms is that mobile communication devices must be turned off – including “vibration mode”.
- A.4. HKBA notes that paragraph 5 of the Draft PD sets out “*those restrictions that currently apply*”. Assuming that cellular signals will remain prohibited, HKBA proposes that this be clarified in the Draft PD along the following lines:-

*“Cellular signals (including reception, emission and transmission) are not permitted within Courtrooms. All cellular signals on all mobile communication devices must be switched off – including cellular*

*signals on all mobile phones, tablets, laptops or other computers, mobile data, mobile modems / dongles, pocket WiFi and personal hotspots.*

*Usage of WiFi (through the WiFi services provided within Court Buildings) and Bluetooth are permitted within Courtrooms.”*

A.5. Furthermore, the statement in paragraph 7 of the Draft PD that “*mobile phones or other mobile communication devices switched to airplane mode and only connected to the WiFi provided by the court may be used as a means for text-based communications subject to fulfillment of the conditions and requirements set out in this Practice Direction*” is somewhat ambiguous, as “airplane mode” on most mobile phones and mobile communication devices involves switching off all signals – cellular, WiFi and Bluetooth– the latter two of which are not prohibited.

A.6. HKBA proposes amendments to paragraph 7 of the Draft PD along the following lines:-

*“mobile phones or other mobile communication devices with all cellular signals switched off ~~to airplane mode~~ and only connected to the WiFi provided by the court may be used as a means for text-based communications subject to fulfillment of the conditions and requirements set out in this Practice Direction”*

**(B) Audible Alerts**

B.1 As it is anticipated that mobile communication devices may remain turned on (albeit with cellular signals switched off) and may be connected to the WiFi services that are proposed to be introduced, those mobile communication devices might continue to receive incoming communications that are not cellular based – such as incoming emails, Instant Messaging, Voice Over IP (VoIP); although of course the actual ‘taking’ of VoIP calls would be prohibited in any event – all of which

are ‘data’ based. This is particularly so since the reasonable use of text-based communications is now permitted, which will necessarily include ‘incoming’ communications.

B.2 Such incoming communications may result in the emission of ‘alerts’, which may be audible.

B.3 For the avoidance of doubts, HKBA proposes that the following be clarified:-

*“All ‘alerts’ must be switched to silent or vibration mode, and audible alerts are prohibited within Courtrooms”*

**(C) WiFi Connections for Instant Transcription Services**

C.1 Instant transcription services (such as LiveNote or Transcend, provided by Merrill Corporation) require users’ computers to be connected to that of the transcriber. Those connections may be effected *via* Ethernet ‘CAT’ cabling or WiFi.

C.2 Presently, WiFi connections for instant transcription services are not permitted within the High Court Building (including in the Technology Court). This means that Ethernet ‘CAT’ cabling has to be laid down for each occasion – which is troublesome and occasionally dangerous.

C.3 On the other hand, WiFi connections for instant transcription services are permitted for some of the other Court Buildings – for example, the Lands Tribunal.

C.4 With the introduction of the WiFi services that are now proposed, HKBA anticipates that the technical hurdles against permitting WiFi connections for instant transcription services will have been resolved for those Court Buildings where this is presently prohibited (as the same WiFi technology is employed).

- C.5 The Judiciary is invited to consider permitting WiFi connections for instant transcription services to be extended to all Court Buildings where WiFi services are being provided, so that Ethernet ‘CAT’ cabling is no longer necessary.
- C.6 This is not something that necessarily has to be provided for in the Draft PD, but is merely HKBA’s proposal as an issue that may merit some consideration.

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Hong Kong Bar Association