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TOPICS

AUTONOMOUS VEHICLES: ARE WE THERE YET?

Introduction

The last quarter of 2017 heralded a new era of fully and semi-automated delivery vehicles, the most celebrated of which was the Tesla semi-truck; an all-electric semi-truck design that can run on batteries alone . In the same period, Uber acquired Otto (a self-driving truck start up) and successfully delivered over 50,000 cans of Budweiser beer over a 120-mile journey in October in what was dubbed as the completion of the world's first shipment by a self-driving truck . Closer to Hong Kong, Jingdong, a Chinese e-commerce company, launched an unmanned light van, EV80, and began road testing in September.

The advent of vehicles equipped with radars, sensors, high precision maps and positioning system promises to improve job quality, improve safety of delivery personnel and enhance efficiency of deliveries and fleet utilisation. The autopilot will take charge of road safety, reduce human error and fully automated vehicles could alleviate the shortage of drivers in the industry . However, the commercial viability of automated technology is not limited by its speed of progress but rather the reluctance of the legislative landscape to accept or adopt to the new technologies. There are obvious regulatory implications, of which, liability, insurance and safety are just three.

Hong Kong

Autonomous vehicles are not yet regulated in Hong Kong. The existing regulations (that apply only to non-autonomous vehicles) have forced the first driverless vehicle built in Hong Kong to commence their road tests in China .

In another initiative by the arts and culture hub in West Kowloon, Hong Kong lawmakers have criticised the HKD $2 million fully autonomous passenger car (purchased to transport passengers in West Kowloon's grounds) as *"unnecessary"* and *"expensive"* . Tanya Chan, deputy chairwoman of the subcommittee that monitors cultural projects' implementation, called the idea *"stupid"* and *"ill-conceived"* and vowed to follow it up in Legco , however these comments may be targeted more towards the cost of these vehicles than the concept of autonomous vehicles per se.

The authorities' receptivity to automated mechanic functions is not entirely bleak. Since October 2016, drivers of Tesla Model S in Hong Kong can now enjoy its auto steer and auto lane change functions – two autopiloting features that were suspended just a year earlier . Additionally, in the *"Smart City Blueprint"* published by the Hong Kong Government in 2016, the use of automated vehicles is included in the *"Smart Mobility"* category. As part of the *"gearing up"* for the testing of AVs, the Government has announced a medium term initiative (2021-2025) to undertake AV pilot projects and associated intelligent traffic systems at selected locations .

China

China has a ten-year vision to fully include automated transport into its mainstream transport system. On 25 April 2017, the Chinese Ministry of Industry and Information Technology announced a *"Mid to Long Term Development Plan of the Automotive Industry"* in respect of autonomous cars . The government aims to develop China into a manufacturing and automotive powerhouse. However, current regulations have not yet caught up.

For example, under existing regulations, in the event of a road accident the driver/owner that caused the accident will be liable under the People's Republic of China's Road Traffic Safety Law and Tort Law. Where there is an accident involving a motor vehicle and pedestrians or drivers of a non-motor vehicle, strict liability will apply. A strict liability regime applied to the *"drivers"* of autonomous vehicles poses a number of questions: who (or what) is the *"driver"*? What liability does this leave with the vehicle manufacturer and /

or the software provider? If liability is assigned to the human owner of the car or truck, what recourse do they have against the manufacturer / software provider for accidents caused by defects in the automated systems? Whilst apportionment of liability as between owner and manufacturer can be dealt with, to some extent, in the original contract for sale, it is suggested that it is better dealt with by way of government regulation.

At present, there are limited national and industry standards on autonomous cars, however the newly established Connected Smart Automotive Subcommittee aims to develop national standards on technologies relating to telematics information in the near future. There is some speculation that China would opt to follow Germany's current regime where the driver or owner of the automated vehicle will be primarily liable for accidents with subsequent recourse against manufacturers in cases of manufacturers' liability , however this remains to be seen.

Singapore

On 26 August 2016, Singapore was the first country to complete a series of public road tests of six driverless taxis . Singapore plans to have an entire fleet of driverless taxis by sometime this year with passengers being able to summon a vehicle through a smartphone application akin to established applications such as Uber and Grab .

Regulations regarding autonomous vehicles are still in their infancy as the government assesses the role autonomous vehicles will play in Singapore. In February 2017, Singapore's Parliament amended the Road Traffic Act ("RTA") , which amongst other changes, outlined a regulatory framework for the trials and use of autonomous vehicles in Singapore. Most notably, the definition of *"motor vehicles"* is no longer confined to a motor-powered vehicle with wheels and the need for a motor to form part of the vehicle is eliminated. There is also an inclusion of a new class of vehicles, being *"autonomous motor vehicles"* and *"automated vehicle technology"*. The amendments also allow for autonomous vehicles trials to be conducted on public roads and the basic registration and licensing framework is amended to reflect the potential new classes of vehicles.

Potential Legal Implications

As automated technologies progress, liability for accidents and connected issues of product liability will inevitably surface . This is especially relevant in Hong Kong where driving can be chaotic at the best of times and where a growing population and demand for e-commerce is going to bring more congestion to the roads. Even in Singapore, a nation arguably on the forefront of many technological advances, one of the autonomous taxis collided with a truck barely two months after the world's first successful trial .

As cars become more autonomous, the fault for accidents will arguably shift from the driver / user to the manufacturer. This will require the law to clarify the definition of *"driver"* and perhaps, impose limitations on the autonomous system, such as the specific conditions in which automation can be used (including specific areas or instalment of a black box) or whether a person nevertheless would have to be present in the vehicle.

This would also invariably call for a review in the current consumer protection regime, making it critical for manufacturers who wish to minimise product liability claims to ensure that products are marketed responsibly. Manufacturers will also need to adopt high(er) standards for vehicle safety and put in place robust systems for updating software when errors are found, including any cyber-attack vulnerabilities. One potential issue would be the difficulty for lawmakers to assess and determine industry standards on a complex area that most legislators would undoubtedly lack the expertise in.

Where fully automated vehicles are used as a mode of delivery, issues as to where liability would fall if the

delivery gets stolen / lost / damaged will also have to be considered. Would the liability be strict or would delivery companies be able to exclude or limit liability, and how could legislation deal with incidents where the automated system is hacked by a third party? At present, it may be that insurance (and related regulations) would be the most effective safeguard for consumers to claim compensation for such liability.

With the need for such insurance, it is incumbent on legislators to ensure that insurance is available to both users and providers of automated vehicles. Policymakers would also have to consider whether statutory or discretionary insurance, (for example: first party, third party or product liability insurance), would be required. It also remains to be seen whether car owners would see an accompanying reduction in insurance premiums as the element of human error is eliminated in automated vehicles.

A final issue to consider is how the law regarding data protection and sharing will develop. Given the increased reliance on a data sharing framework, data would be required to determine liability and most importantly, who (or what) was in control of the vehicle at the time of the incident. Such data will likely to constitute personal data and thus, be protected under Data Protection legislation. A difficulty would be barriers to the access of such data and the co-ordination between regulators and consumers.

Conclusion

The greatest barrier to automated (delivery) vehicles in Hong Kong, may not be technological but legal and human barriers. Hong Kong is certainly behind their economic rivals like USA, China and Singapore, in their acceptance for a partially or fully automated system. This reluctance could stem from a perceived lack of control, however, autonomy is already a common and integral feature in transport systems such as aircraft systems, tramways and the metro systems . Historically, the legislative framework of Hong Kong is largely based on United Kingdom. In 2015, the United Kingdom's Department for Transport published a code of practice for testing of automated vehicle technologies, providing guidance on automated vehicles on public roads in the United Kingdom. In this respect, Hong Kong could take guidance from its legislative forerunner.

However, policymakers are forced to accept this revolution whether Hong Kong is prepared for these changes or not. In the words of Wesley Wan Wai-hei, a member of the government's Transport Advisory Committee: *"I can foresee that Hong Kong's taxi drivers will be replaced by this autopilot system within 10 years because driverless taxis will be an inevitable trend. This global trend will force the SAR government to put in place driverless taxis because automakers around the world will mainly produce autonomous vehicles. The government will have no choice by then."*

The future of automated vehicles in Hong Kong could be realised in less than a decade, but the implementation may face obstacles including battling incumbent interests (such as taxi drivers who face losing their jobs) and working out the technical aspects of future regulations. So it seems that in Hong Kong at least, we are not quite there yet.

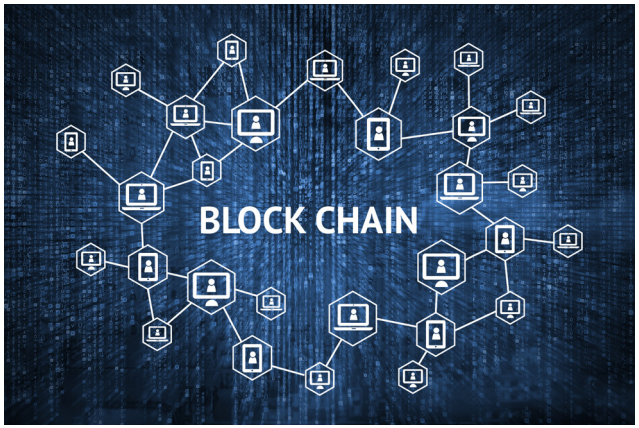
BLOCKCHAIN – PANACEA OR RED HERRING?

In 2017 the logistics and transport industry was awash with predictions of the advances that a myriad of new technologies were going to bring. One of the major predicted advances was the use of blockchain technology to enhance communication and transparency across the supply chain, to effectively deal with the current fragmentation across the industry and to make traditionally paper-based trade processes more efficient.

Here in Hong Kong, the government has recognised the potential of blockchain and the need for further research into its practical application . In a whitepaper published in October 2017, the Hong Kong Monetary Authority identified a number of legal and compliance issues with distributed ledger technology. It also set out the results of proof of concept tests in trade finance, digital identity management and mortgage loan applications , demonstrating the benefits and challenges of the practical applications of the technology in its current form.

What problems might blockchain solve?

The results of a JOC survey issued in December of the major complaints of shippers in relation to containerised cargo demonstrate shippers' frustrations with the current system, and the types of issues that blockchain



technology could be used to address . The major complaints included:

1. No real-time visibility at any point in the supply chain and particularly during transhipment and intermodal transport;

2. No centralised means of allocation, with space allocated via local offices;

3. A need to quickly adjust supply chain routes when disruption was encountered at one point; and

4. A desire for continuously updated ETAs.

Yet increasing transparency is not just a customer-driven requirement; with the renewed focus of regulatory authorities globally on eliminating corruption, slavery and environmentally adverse practices from supply chains, it is also a legal and reputational concern.

The promise of blockchain is that it can provide a model for a decentralised and immutable shared ledger, which all parties in a transaction can access. This provides real-time, indisputable information about a consignment, its provenance, location, condition and history. With higher transparency comes higher accountability, with information no longer passed along a chain from one contracting party to his immediate counterparty, but shared with all participants simultaneously.

Commercial Questions

Whilst many technology companies have recently sprung up with the promise of delivering an entire, integrated blockchain solution for logistics and supply chain management , these are nascent and leave many practical and commercial questions unanswered, such as:

1. All parties in a transaction will need to use the same platform, much like with the current e-bill of lading technology. As it's likely that a number of competing

blockchain solutions will come to market, will participants in a transaction have to subscribe to a number of different blockchain solutions, with the associated duplicative costs of doing so?

2. With the creation of overlapping blockchain models comes a growing need for some form of international standardisation to promote interoperability. Those signing up to blockchain model before the standards are set may find themselves having to adjust their practices later on, to meet the new standards.

3. The proliferation of blockchain solution means that some platforms will not survive in the competitive marketplace. How will this be managed? And what if a party to the blockchain transaction goes out of business, is bought or becomes insolvent before the transaction is completed?

4. The widespread adoption of blockchain aims to cut out brokers and forwarders altogether, by giving direct and open access to carriers. How will they and other intermediaries fit in to the new model?

5. Not all parties in a transaction, particularly intermediaries, will feel comfortable with all other parties seeing their contracting / pricing data, meaning that some way will need to be found to accommodate certain data / transactions outside of the main ledger, whilst maintaining the integrity of the distributed ledger model.

6. The availability and reliability of internet services and electricity is not universal – not all stakeholders involved in a supply chain will have a stable energy and internet supply to fuel electronic processes.

Legal questions

As is often the case with technological advances, the legal framework has been slow to catch up, with the limited regulation in place aimed at cryptocurrencies rather than the underlying technology. Nevertheless, the use of blockchain technologies raises a number of legal issues:

1. As a decentralised system, with no single fixed location, under what jurisdiction does the technology and the data stored on it, fall?

2. Linked to that, as the system is designed so that no single entity controls it, who is liable in the event the system fails?

3. Whether the applicable legal regime recognises electronic contracts and digital signatures and permits transactions to be carried out digitally. Taking e-bills of lading as an example, under English law, electronic documents do not come within the definition of *"bill of lading"* under COGSA 1992 meaning the rules governing transfer of title to sue would not automatically apply. In addition, the Hague / Hague Visby Rules have the force of law in relation to *"documents"* only. Further, under HK law the Electronic Transactions Ordinance allows private parties to agree on the validity of digital signatures, but certain transactions (e.g. any assignment, mortgage or legal charge) are excluded and must therefore be carried out on paper.

4. Additionally, whilst promoters of blockchain technology claim it is unhackable, cybersecurity issues will still need to be addressed including ensuring insurance policies provide coverage for data loss.

5. Linked to the use of blockchain is the idea of a *"smart"* contract, a coding solution for managing self-executing contracts. Participants in such contracts will need to ask whether it qualifies as a *"contract"* for the purposes of applicable current legislation and will also need to consider issues of liability (if, for example, the contract self-executes incorrectly, who is responsible for the resulting losses?).

6. The distributed nature of blockchain inevitably requires the electronic transfer of data across international borders. That is becoming the subject of increasing regulation and restrictions, most notably in China and the EU.

7. Linked to that is the protection of personal data and liability for its loss. How is personal data going to be protected? In Hong Kong, under the Personal Data (Privacy) Ordinance, companies must take steps to protect personal data that they hold. The Ordinance places limits on the use of that data and the period of time it can be held. Similar principles apply in other major jurisdictions, not least the EU with the General Data Protection Regulation coming into force later this year.

8. Competition and anti-trust – how will the sharing of pricing information be treated by competition authorities? If a *"permissioned"* blockchain is used, how will access be regulated? Could the regulation of access amount to behaviour that is considered anti-competitive?

9. Compliance with regulatory and reporting requirements – with fast changing export / import prohibitions, sanctions etc. how can automated self-executing contracts keep up? Will data stored in the blockchain eventually be made available to reporting authorities to prove non-compliance?

10. Evidence - whilst it is hoped that the transparency in the supply chain can either prevent disputes from arising altogether or limit the breadth of a dispute once it arises, the existence of *"immutable"* evidence as recorded in the blockchain could present new challenges to the defence of claims against carriers. Will courts accept the information on the ledger as *"immutable"* and thus non-rebuttable evidence?

Conclusion

Many companies and governments, including that of the HKSAR, are focussing on the potential of blockchain to revolutionise business processes. There are many start-ups and established businesses offering blockchain solutions for the logistics industry, but it remains to be seen exactly how widely-adopted these solutions will be or whether a modified version, that deals with the various legal and commercial issues identified above, takes precedence.

Companies are already seeking to identify the potential and applicability of blockchain in the logistics industry by running *"demonstration tests"* with a single shipment. We will be monitoring the results of these tests and the implementation of blockchain closely, with follow-up articles to come in future editions.

AN INTRODUCTION TO E-COMMERCE IN HONG KONG

What is e-commerce?

One definition of e-commerce is *"the sale and purchase of goods or services, conducted over computer networks by methods specifically designed for the purpose of receiving or placing of orders"* . That sale can be conducted via the seller's own website, via a specific platform or portal (such as Amazon or Alibaba or new platforms such as Freightos in the shipping context), via a mobile app or via EDI.

The process of e-commerce can be divided into 3 stages:

1. Discovery / pre-purchase: The consumer is directed to the product via a website, third party advertising, search engines etc.

2. Transaction / purchase: A contract is formed and the consumer buys the goods with an online transfer of payment.

3. Delivery and post-purchase: Either digitally (such as purchase of music files, movies etc.) or physically.

E-commerce Distribution

The on demand nature of e-commerce requires supply chains to be reconfigured to make fast, next or same-day delivery (and convenient return) of goods possible. The logistics and supply chain infrastructure required to support e-commerce is dictated by consumer demand, with consumers wanting goods delivered quickly, with demand fluctuating quite dramatically on a seasonal basis. End consumers are diffuse and spread geographically, with small shipments as compared to traditional retail logistics where orders would be delivered cyclically, to a concentrated number of businesses and in bulk.

Given the complex and demanding nature of e-commerce logistics, it is no surprise that a survey by HKTDC found that 60% of online merchants in Hong Kong are struggling to manage in-house logistics with participants ranking finding logistics/warehousing service providers as medium difficulty .

E-commerce in Hong Kong

According to the UNCTAD B2C E-Commerce Index 2017, a measure of countries' readiness for e-commerce, Hong Kong ranks 16 out of 144 countries, with China ranked 65th, Singapore 18th and Korea 4th. Whilst this makes Hong Kong one of the highest ranking Asian economies, the data also shows that only around 30% of the population are *"internet shoppers"*.

Surveys suggest that the relatively low use of e-commerce in Hong Kong is due, in part, to a general lack of trust of quality of products purchased online, a dislike of paying shipping costs and an immediate need for the products / services . From January to October 2017, the Consumer Council received over 3,000 complaints in relation to online shopping. The highest proportion of those (around 25%) related to delayed delivery, with the second most common complaint (around 22%) related to a price / charge dispute.

What is the ideal regulatory framework for facilitating e-commerce?

Taking each of the 3 stages of e-commerce identified above, the foundational regulations required for each stage to run effectively are:

1. Discovery / pre-purchase: Regulations obliging vendors to describe products fairly and accurately and to control deceptive practices.

2. Transaction / purchase: Regulations covering security of payments, control of unfair contract terms, and validity of digital contracts and signatures.

3. Delivery and post-purchase: Regulations covering mandatory time limits for delivery, customs compliance and liability for loss / damage / theft.

As regards policies for addressing the perceived lack of consumer trust in e-commerce in Hong Kong, the international guidelines for consumer protection and e-commerce make the following recommendations:

1. In general, e-commerce consumers should be offered a level of protection not less than that afforded to other consumers;

2. Governments should set up a robust legal and institutional framework governing e-commerce / adapt existing regulations to the particular requirements of e-commerce;

3. Governments should ensure effective enforcement of applicable laws;

4. Laws should require full disclosure of all necessary information related to businesses, goods / services and the transaction;

5. Regulations should be implemented to ensure the reliability and security of online payments;

6. Regulations should be implemented to prevent misuse of consumer data;

7. Regulations and institutions should be set up to provide consumers with access to effective dispute resolution;

8. Regional and international cooperation and standardisation is required to encourage cross-border trade and to protect consumers in the event of cross-border breaches of consumer protection law.

In addition to the above, for cross-border e-commerce, efficient customs clearance is essential. This may require implementing special regulations for e-commerce goods to ensure they can cross borders quickly.

One example is the Chinese government's scheme of regulating e-commerce goods as "personal items" in a limited number of pilot cities. On 7 December 2017, MOFCOM announced the extension of the scheme to 10 pilot cities until the end of 2018 . This means subjecting the goods to less stringent checks at the border, with no requirement that the goods meet domestic standards and no quarantine. MOFCOM reports that there have been instances of quality and safety problems during risk-monitoring inspections mainly including packaging, carriage of pest and non-standardised labelling but these are clearly not significant enough to compel the Chinese government to roll-back the scheme.

What is the current Hong Kong regulatory framework?

There is no, single dedicated e-commerce law in Hong Kong. Rather, e-commerce is governed by a network of laws, none of which are specifically drafted to address e-commerce in particular. Taking the above list of requirements and recommendations, we can see that Hong Kong's set of laws is fairly well developed, but that it does not go as far as some of the more established e-commerce laws such as those in the EU and South Korea:

Recommendation	In place in Hong Kong?
E-commerce consumers should be offered a level of protection not less than that afforded to other consumers, which would include: • Control of unfair contract terms; • Safety of goods.	The **Unconscionable Contracts Ordinance** gives the consumer the right to avoid or alter the contract if it is found to be unconscionable. The **Consumer Goods Safety Ordinance** which requires manufacturers, importers and suppliers of consumer goods to ensure that the goods they supply for local consumption are reasonably safe. The **Sale of Goods Ordinance** The **Supply of Services (Implied Terms) Ordinance**
A robust legal and institutional framework governing e-commerce / adapt existing regulations to the particular requirements of e-commerce, which would include: • Validity of digital contracts and signatures. • Mandatory time limits for delivery. • Customs compliance. • Liability for loss / damage / theft.	The key legislation is the **Electronic Transactions Ordinance**, discussed below. Note that HK does not have any specific e-commerce regulations that, for example, impose a mandatory cooling-off period in which online shoppers can cancel the contract and return the goods (as in the EU). The Consumer Counsel in a report in 2016 stated that "a similar right for of withdrawal for goods and services bought online from Hong Kong websites would greatly enhance consumer confidence" but there does not seem to be any plan to introduce this in Legco at this time.
Regulations requiring full disclosure of all necessary information related to businesses, goods / services and the transaction.	The **Trade Description Ordinance** which prohibits common unfair trade practices deployed against consumers of goods and services, including false trade descriptions, misleading omissions and accepting payment with no intention to supply the product at all or within a reasonable time. Note that this does not impose any specific obligations regarding information concerning the seller itself, as in the EU.

Recommendation	In place in Hong Kong?
Regulations to ensure the reliability and security of online payments.	**The Payment Systems and Stored Value Facilities Ordinance** This can also be achieved via the sellers themselves using encrypted payment methods, or trusted third party payment processing companies / software.
Regulations to prevent misuse of consumer data.	The **Personal Data (Privacy) Ordinance** provides that sellers or service providers who collect personal data from their customers must observe data protection principles, including respecting mandatory limits on the duration of retention of data and its use.
Regulations and institutions to provide consumers with access to effective dispute resolution.	The Consumer Council acts as a conciliator in handling disputes between consumers and traders. However, there is no dedicated "e-commerce court" or online dispute resolution system for the quick and cost-effective resolution of disputes which are often relatively low value. Further practical difficulties arise in resolving multi-jurisdictional disputes, with goods bought from a seller outside of Hong Kong.

The ETO 2000

The Electricity Transactions Ordinance 2000 ("ETO") was enacted on 5 January 2000 and all of the provisions came into operation by April of the same year. The ETO:

- Aims to give electronic records and digital signatures the same legal recognition as their paper-based counterparts;
- Establishes a framework for recognition of *"certification authorities"* in Hong Kong; and
- Permits *"virtual"* contracts to be concluded through the use of electronic signatures.

In relation to 'virtual' or electronic contracts, the ETO both permits electronic documents to fulfil a requirement for 'writing' (s5) and recognises an electronic signature as fulfilling the requirement for a 'signature' (s6).

The Ordinance distinguishes between six different "digital" concepts:

1. Certification Authority – A trusted entity that issues electronic documents that verify a digital entity's identity on the Internet. Certificates will usually include the owner's public key, the expiration date of the certificate, the owner's name and other information about the public key owner.

2. Digital Certificate – An attachment to an electronic message used for security purposes. This electronic "passport" allows a person, computer or organisation to exchange information securely over the internet using the public key infrastructure.

3. Electronic Record – A collection of data captured through electronic means and managed and processed to become information. Also called the machine readable record.

4. Digital Signature – An encrypted digital code used to validate the authenticity and integrity of a message, software or digital document. There are two requirements for the digital signature. First, it must be generated using an asymmetric cryptosystem which provides a layer of validation and security to messages sent through a non-secure channel. Secondly, a digital signature must be generated through a hash function (or algorithm).

5. Electronic Signature (e-signature) – Any symbol in digital form attached to an electronic record for the purposes of approving or authenticating such an electronic record. If parties are non-governmental entities, signatories can choose whether to use electronic or digital signatures at the consent of whom the signature is given.

6. Cryptosystem – A computer system that involves hiding information. A cryptosystem will involve a set of algorithms needed to implement a method of encryption and decryption.

There are additional limitations outlined in the ETO as certain transactions still require a paper signature. These include testamentary documents, trusts, court orders or assignments of land.

What other bodies are involved in promoting and regulating e-commerce in Hong Kong?

In addition to the statutory framework, a number of other governmental / business organisations have been set up to promote and regulate e-commerce in Hong Kong.

On the government side, the Commerce and Economic Development Bureau oversees the operation of E-commerce in Hong Kong. Additionally, the HKMA has an important role to play in ensuring that different forms of digital payment can be accommodated and processed in Hong Kong. In September 2017, HKMA

announced the "Faster Payment System" initiative which supports the use of mobile phone numbers or email addresses for payments in Hong Kong dollar and Renminbi anytime and anywhere. FPS is scheduled to be launched in September 2018.

On the commercial side, there are a number of associations working to promote e-commerce . Most notable is the Hong Kong Federation of e-commerce who, in August 2016, launched the "Hong Kong Trust Mark". The aim is to provide consumers with comfort that they are buying from a reputable online retailer, which has been accredited as meeting the required standards of the Hong Kong Trust Mark.

Implications for logistics operators in Hong Kong

The Hong Kong government has committed to a digital future, both with its 2008 "Digital Strategy" and its more recent Smart City Blueprint. Additionally, the government has re-stated its commitment to supporting the transportation and logistics industries in the recent Policy Report 2017. Specifically, the government has recognised that the booming growth of e-commerce has generated an ever-increasing demand for, in particular, air mail and trans-shipment services, which requires an expansion of the Air Mail Centre at the HKIA.

In addition to the favourable policy environment, infrastructure developments such as the Zhuhai-Macau-Hong Kong link, the Three-Runway System and the proposed new premium warehousing facility at HKIA all provide opportunities for Hong Kong, and its logistics companies, to cement its position as a key e-commerce hub.

As service providers operating digitally, logistics companies in Hong Kong will also need to ensure that their online sales practices comply with the relevant laws and regulations and that they remain up to date. Notwithstanding the lack of statutory obligations relating to the provision of information and a right to cancel, companies would be well-advised to consider voluntarily adopting international best practices and standards to enhance their customer service reputation and competitiveness.

CHINA'S NEW SINGLE WINDOW PLATFORM

In 2017, the Chinese authorities announced a number of key reforms to customs procedures that on their face, look to facilitate the movement of goods across Chinese borders. One of the major announcements was the national roll out of a *"standard"* Single Window system. This article looks at the changes this brings to the old system and the implications for traders.

From fragmentation to consolidation

In China, some degree of Single Window ("SW") has been in place since 2012. At first, the General Administration of Customs of China ("GACC") collaborated with the General Administration of Quality Supervision Inspection and Quarantine on launching pilots on *"single declaration, single inspection and single release"*, which form the basis for the *"single window"* model. Such pilots were implemented across eight provinces (municipalities) including Guangdong, Tianjin, Inner Mongolia, Liaoning, Jilin, Heilongjiang, Shanghai and Fujian, representing a total of 17 customs territories.

The pilot system was subsequently succeeded by a *"one-stop approval and single-window clearance mechanism"*, which was promoted in 2014, by Premier Li Keqian. Again, this new clearance mechanism was only available in certain provinces and cities.

Currently, each province has its own, local version of the SW system, with different functionalities and different levels of sophistication, meaning that no, universal system was available. However, on 27 November 2017, the GACC announced that the *"Standard Version"* of the SW platform (the *"Platform"*) was now in place. This Standard Version covers all 31 provinces and regions within China, in an effort to centralise data and information. The *"standard version"* of the Platform is reported to cover all trade ports with a total of 35,000 registered users with more than 100,000 daily declarations and offers 9 functions. The Platform is running concurrently with the local SW systems.

From delays to efficiency?

Prior to the implementation of the Single Window platform, import and export businesses were required to submit trade documents to a number of different authorities: Customs, the GACC, Inspection and Quarantine; the China MSA; immigration inspection, and other departments. Declaration processes were often complicated, time consuming and duplicative. For instance, the importation of goods carried in a container used to involve 9 steps, 24 processes, and the submission of 15 types of documents. Customs clearance alone often exceeded 3 days.

The implementation of the new Platform is expected to significantly reduce the time for customs clearance. Instead of having to manually submit the same information and declarations repeatedly to the different government agencies, the new Platform allows enterprises to submit their declaration and

information only once onto the online Platform, which will then be automatically passed on to the different government agencies.

Prior to SW, preparation of declaration papers typically took approximately 30 minutes. Together with a more user friendly interface, the preparation time is expected to reduce from 30 minutes to 5 minutes. At its optimal, customs clearance is expected to take only 2 hours, as compared to the 3 days previously required . That has a significant impact on delivery times and costs. It is estimated that the total costs for customs clearance can be reduced by 50% by using the new Platform.

Multiple inspections of cargo by different law enforcement agencies used to be required, in order to satisfy the regulatory requirements of the different departments. Joint inspection is expected to be the new norm. With the Platform, containers are only expected to be opened once for inspection. In theory, upon receipt of the online declaration, should any of the departments deem the goods to be suspicious, the other agencies will be notified and will attend the port for a joint inspection.

Am I eligible to open an account on the Platform?

The Standard Version of the Platform (and all the local platforms) is currently available only in the Chinese language. Through the website, one can apply for an account as a corporate or an individual user. The registration process appears to be rather straight forward. All that is required are the Uniform Social Credit Code, Organisation Code, name of Corporate; name of the person in charge, and his Identification Document number. It appears that so long as these information are available, one can register for an account. There does not seem to be any restriction in place for the registration of an account.

Supplementary reforms

To the central government, cooperation between departments is not always easy, as they have different protocols as well as standards. Despite these inherent challenges, internal reforms have been carried out in the different departments, to allow the smooth running of the Platform. For instance, the Ministry of Public Security has issued a memo directing all border inspection agencies to cooperate; the Ministry of Communications has updated its Vessel Safety Supervision Management system, in order to make information more easily available on the Platform; the General Administration of Quality Supervision has updated its Electronic Certificate of Inspection and Quarantine system; and both the Ministry of Agriculture and State Forestry Administration proposed that by the end of 2018, all release notices for pesticides and license for import and export of wildlife can be applied for and obtained through the Platform.

According to a director of the National Office of Port Administration, the next step is for the Platform to include functionalities that cover the Free Trade Zones, the Pilot Free Trade Zones, Special Customs Supervision Areas (保税区、出口加工区、保税物流园区、跨境工业园区（ 包括珠海跨境工业园区 ,霍尔果斯边境合作区 ）、保税港区、综合保税区) and the Cross-Border E-Commerce Comprehensive Pilot Zones. Application of the Platform is expected to be even more widespread by then, further easing the speed of trade.

What about Hong Kong?

At the moment, Hong Kong has no SW in place. The Economic Development Bureau has been well aware of this, and had set up a new Project Management Office ("PMO") dedicated to the development of one several years back. A Public consultation exercise was concluded in July 2016. One of the major views was that electronic submission of business-to-government (B2G) documents to SW would streamline the business process and would bring about savings in manpower and operating costs, owing to the SW's capabilities to facilitate data re-use and data-sharing.

Further to the consultation paper, in April 2017, the way forward for a Hong Kong SW System was discussed in the Legislative Council. It was proposed that phase 1 of the SW system should be rolled-out in Q2/2018, covering 14 trade documents, allowing applications to be made through the SW on a voluntary basis. Phase 2 is expected to roll out by 2022. By then, submission of all 40 trade documents (including the 14 documents under Phase 1) would be mandated to be done through the SW by way of legislation. The final phase is expected to roll out in 2024, where the submission of all Import and Export Declaration and the revised pre-shipment documentation proposal are mandated to be done through the SW.

A lost opportunity?

Not quite lost, but definitely late. It is reported that the GACC expects all functionalities of the Chinese SW system to be implemented nation-wide by 2020, and anticipates that the Chinese SW system could connect and share data with the HK SW by then, in order to facilitate the surge in import and export trade arising out of the Belt and Road initiative.

As mentioned above, the Hong Kong system would not be fully implemented until 2024 at its earliest. Commentators fear that Hong Kong is too far behind schedule and would miss much of the cross-border e-commerce development opportunities. This is especially so where standardisation and integration of SW in Hong Kong and other cities of the Greater Bay Area is considered as one of the major directions in facilitating trade flow and logistics operations efficiency in the region.

We will be looking at developments in the Greater Bay Area in our next edition.

CONTACT INCE & CO

Rory Macfarlane
Partner, Hong Kong
rory.macfarlane@incelaw.com

Joanne Waters
Senior Registered Foreign Lawyer, Hong Kong
joanne.waters@incelaw.com

Other Contributors:

Christabel Seah
Foreign Lawyer, Hong Kong
christabel.seah@incelaw.com

Sophie Forsyth
Paralegal, Hong Kong
sophie.forsyth@incelaw.com

Vincent Yeung
Trainee Solicitor, Hong Kong
vincent.yeung@incelaw.com