



THE CHIEF EXECUTIVE'S POLICY ADDRESS 2024

LAW SOCIETY SUBMISSION

1. The Law Society provides this submission in response to the Government's Consultation on the 2024 Policy Address¹.
2. We are to set out in this Submission our views on various legal policy initiatives including those on Sports Law, Intellectual Property, Legal Education and Training.

SPORTS LAW

3. Sports law is an actively emerging and evolving area. It encompasses a diverse range of legal issues on sports, esports and athletic activities. As we look to the future of Hong Kong as a sports law center and a vibrant hub for international sports, it is imperative that the Government should have in place a comprehensive policy to establish a robust legal framework to support the development of sports and esports in Hong Kong.
4. A solid legal framework for sports and esports is not merely a legal necessity. It provides also a supportive environment for long-term growth and sustainability of sports and economy in Hong Kong. The unique challenges faced by sportsmen, athletes, organizations and the governing bodies need to be addressed.

¹ <https://www.policyaddress.gov.hk/consultation24/en/>

5. To assist the Government in its deliberation and formulation of policy in this regard, we have prepared and issued a paper on “Sports Law Development for Hong Kong”. The paper covers both non-contentious and contentious aspects. We invite attention on our proposals set out in the paper. A copy of the paper is annexed to this Submission.
6. The policy on sports and sports law should also embrace tax incentives – the Government should consider reducing withholding tax for visiting sportsmen as an incentive to induce Hong Kong sports event organisers to bring in more world-class professional sportsmen to play or perform in Hong Kong. The current rate may not be high (pitched at 10%), but we can be more aggressive with sports promotion. Furthermore, many successful sportsmen become celebrities and can draw in fans, visitors, merchandising, sponsorships and more importantly, international attention and media coverage for Hong Kong. Their presence certainly helps.

INTELLECTUAL PROPERTY

7. On intellectual property (“IP”), we agree with full endorsement the objectives that strengthening and enhancing Hong Kong’s IP protection regime, as well as promoting IP management, commercialization and trading, enable Hong Kong to play to its strengths and thrive in the high-value segments of the entire I&T industry chain. On this, it is important to have a clear and a strong policy on, among others, (i) a copyright protection regime, (ii) IP trading and commercialization and (iii) education on IP awareness and recognition.

Copyright protection regime

8. On the strengthening and enhancement of the IP protection regime of Hong Kong, we reiterate those suggestions which we have raised in our submission on Policy Address of last year.² Those suggestions include but are not limited to the proposal for Hong Kong to establish a copyright

² See §§22-27 of the Law Society Submission on “the Chief Executive’s Policy Address 2023” dated 28 September 2023 at https://www.hklawsoc.org.hk/-/media/HKLS/pub_e/news/submissions/20230928.pdf

registration system. A copyright registration system would simplify and facilitate enforcement and commercialization of copyright works and assist rights holders in proving subsistence and ownership of copyright in their works.

9. We are pleased to see that further to the Policy Address of last year³, the Government has recently launched a consultation to explore further enhancement of the Copyright Ordinance (Cap. 528) regarding protection for copyright in light of artificial intelligence (“AI”) technology development⁴. Copyright issues associated with AI-generated works are complex and are evolving on a global scale⁵. The consultation is timely, and we have provided a response⁶ thereto. Among other things, we have in our submission stated that Hong Kong should not merely sit and wait to follow a unified global legislative approach in tackling the issue, especially when such approach is yet to emerge and is far from being settled. Hong Kong should take lead and adopt a more robust approach in tackling copyright issues for and associated with AI-generated works. This is clearly beneficial to leveraging Hong Kong’s IP protection regime and realizing Hong Kong’s role as a regional IP trading center under the National 14th Five-Year Plan.

IP trading and commercialization

10. To reinforce Hong Kong as the regional IP trading center, we ask that Government’s support be mustered for a fuller promotion of IP trading and commercialization. In this regard, the Law Society is pleased to note the recent implementation of the “patent box” tax incentive, which came into effect on 5 July 2024.
11. On the other hand, it is also timely for the Government to put in place IP infrastructure, including IP financing and securitization, to nurture and

³ See §73 of the Chief Executive’s 2023 Policy Address.

⁴ A Public Consultation Paper on “Copyright and Artificial Intelligence” was launched by the Commerce and Economic Development Bureau and the Intellectual Property Department on 8 July 2024.

⁵ See §2.35 of the above Public Consultation Paper on “Copyright and Artificial Intelligence”.

⁶ See the Law Society Submission on the Public Consultation Paper on “Copyright and Artificial Intelligence” of 17 September 2024:
https://www.hklawsoc.org.hk/-/media/HKLS/pub_e/news/submissions/20240920.pdf

revitalize the business ecosystem. We stand ready to discuss with the Government bureau on policy formulation on the above.

Education on IP awareness and recognition

12. One of the key policy considerations that underpins the above proposals is the promotion of awareness and recognition of IP rights in the general public. It is of utmost importance that the various industry sectors as well as the public be given the correct perspective on the value of IP rights.
13. Education on IP awareness and recognition create a virtuous cycle that would bring huge benefits to the society as a whole: correct understanding on IP rights leads to enhanced protection of IP rights; that fosters an environment ripe for creativity and innovation. Creativity and innovation generate competitive advantage for business, which in turn stimulates economic growth and gradually cultivates a culture that values and respects IP rights.
14. We repeat our call to the Government to initiate cross-department and bureau collaboration to promote and enhance education on IP awareness and recognition in our society.

STOCK MARKET AND FISCAL INITIATIVES

15. The amount of funds raised through IPO in Hong Kong has fallen from the world's top in global markets in 2019⁷ to rank 6th in 2023⁸. The number of successfully listed cases and the number of applications also fell significantly in the same period. While there are multiple factors contributing to the recent weak performance of the Hong Kong stock market, and some of these factors are beyond the control of Hong Kong, the Government itself must put in place policies that embolden investors and the commercial sectors on the financial system of Hong Kong, and to

⁷ Page 40 of the Statistical Digest of the Services Sector:
https://www.censtatd.gov.hk/en/data/stat_report/product/B1080007/att/B10800072020AN20B0100.pdf

⁸ Page 42 of the Statistical Digest of the Services Sector:
https://www.censtatd.gov.hk/en/data/stat_report/product/B1080007/att/B10800072024AN24B0100.pdf

provide them with foresights and aspirations to invest and to do business in Hong Kong. Investors and commercial sectors require visions.

16. In the above regard, we appreciate the efforts and commitment of the Stock Exchange of Hong Kong Limited (the “Exchange”) in reviewing and putting out reforms on listing. Various policy proposals have been put forward, including the consultation on GEM Listing Reforms (issued in September 2023), and the Review of Corporate Governance Code and Related Listing Rules (issued in June 2024). While views were canvassed, we ask the Government to act promptly. It is important to deliver to investors a vibrant and diverse stock market.
17. In improving the listing regime for Hong Kong, we encourage the Exchange to give consideration to making Hong Kong a more friendly and competitive place to do business and putting forth regulation which encourages companies to list and remain listed in Hong Kong. Among other things, the Exchange should generally consider steering away from a prescriptive mode. It should expand the current disclosure-based regime (with post vetting enforcement in Hong Kong), and further draw on the successful experience of other markets which have adopted a disclosure-based approach for vetting prospectuses/listing documents⁹.
18. How to continue to make Hong Kong friendly and competitive for listing of companies and for them to remain listed, requires fuller deliberation. On this, the Law Society is prepared to be engaged and to work with the Exchange and other stakeholders including the Securities and Futures Commission.
19. As a corollary to the above, there are important policies of strategic importance in other areas, and all these merit equally detailed consideration in the Policy Address 2024. These include
 - Family offices practices; and
 - Transportation and logistics.

⁹ We have made this appeal in our submission on Exchange’s [Concept Paper on New Board](#) (17 August 2017). See more recently our submissions on the Exchange’s consultation papers on [Listing Regime for Specialist Technology Companies](#) (20 Dec 2022) and on [Review of Corporate Governance Code and Related Listing Rules](#) (20 August 2024).

20. On both of the above, we note there have been various deliberations in the Legislative Council and the public. There are also position papers such as the “*Policy Statement on Developing Family Office Business in Hong Kong*” and “*The Action Plan on Maritime and Port Development Strategy*” promulgated by the Government. We are keen to see follow-up of these discussions, statement(s) and action plan(s).
21. We add that for the committees and working groups of the Government on these strategic practice areas (or when the Government is to set up such committees and working groups), the Government should co-opt Law Society’s members with relevant experience. Our members have already been serving on a number of the Government’s committees and, with their specialist knowledge and expertise, they are most willing to assist in the deliberation.

LEGAL AND DISPUTES RESOLUTION

22. Hong Kong continues to be one of the most important dispute resolution centres. We strive to provide efficient and professional legal and dispute resolution services to parties from all over the world, including those from Mainland China.
23. On the above, necessary and unequivocal supports from the Government to the Judiciary are important. In our views, the Policy Address should continue to deliver assurances and the resolute support to the Judiciary, in terms of finance and manpower allocation.
24. On manpower for the Judiciary, we support the efforts made by the Judiciary Administration on recruitment of Judges and Judicial Officers. That said, the current vacancies within the Judiciary do not leave a satisfactory impression. The recruitment by the Judiciary clearly needs to be continued and be stepped up, preferably with competitive remuneration package, in order to further reduce courts’ waiting time for civil and criminal matters. Furthermore, in the recruitment process, relevant expertise and experience of potential candidates ought to be taken into

account, given the specialty required and, for family courts, the sensitive nature of the practice of these courts.

The above in our views apply *mutatis mutandis* to also internal posting of judicial officers.

25. As for dispute resolution services, to pursue the policy goal set out in paragraph 22 above,

- on mediation - we fully support the initiative to establish the International Organization of Mediation (“IOMed”) headquartered in Hong Kong. The presence of the IOMed, upon establishment, will attract parties to refer disputes to Hong Kong for resolution (by mediation). That boosts other economic activities and enhances the status of Hong Kong as an international hub for mediation. In anticipation thereof, the Government should lay out policy support to the local mediation profession to among other things enhance their overall competitiveness. Education and training are a few of the support measures to be considered;
- on arbitration - we support the Government’s initiatives¹⁰ to promote to the Mainland enterprises (including state-owned enterprises) and Hong Kong invested enterprises to adopt Hong Kong Laws for Hong Kong’s dispute resolution services in Qianhai (Shenzhen), Pilot Free Trade Zones in the Mainland as well as the whole Greater Bay Area. The above initiative should include mediation, arbitration and other appropriate models of dispute resolution. We invite the Government to expedite the progress of the above.

TECHNOLOGY AND AI FOR THE LEGAL PROFESSION

26. The rapid advancement of technology and AI reshapes various industries and sectors, including the legal profession. On the use of technology in the legal profession, before we rendered views and provided response to the Consultation Paper on protection for AI technology development (see

¹⁰ See para 77(1) in the 2023 Policy Address

paragraph 9 above), we have in January 2024 issued a Position Paper on the impact of AI on legal profession. We have impressed upon the legal profession and other stakeholders including the Government the urgent need of coordinated and timely proactive actions and reforms. We would refer the Government to the Position Paper available at the Law Society's [website](#).

27. On the other hand, we note the Judiciary has in July 2024 published a *“Guidelines on the Use of Generative Artificial Intelligence for Judges and Judicial Officers and Support Staff of the Hong Kong Judiciary”*. We welcome the issuance of guidelines of this nature and all in all, we are keen to be consulted and look forward to assisting with consultation and deliberation on policies governing the use of AI in the legal system.

LAW REFORMS AND REVIEWS OF LEGAL PRACTICES

28. We outline a few initiatives in the following for the attention of the Government. Each of these initiatives would either enhance the competitiveness of Hong Kong in vying for business, or for the betterment of the local populace.
29. Only a brief synopsis is given for each of these matters in this Submission. We are prepared to elaborate and reiterate our concerns in more details, if so required.

Corporate Rescue Procedure

30. For business in financial distress hoping to restructure their debts, the legal options currently available in Hong Kong are grossly limited and inadequate. Hong Kong is on the other hand losing restructuring business to competitors in the Asian region, and there is a talent drain from Hong Kong for experts in restructuring and insolvency practices to these competitors.
31. A robust statutory corporate rescue procedure could help those business in need and, more macroscopically, bring the insolvency and restructuring

regime to be in line with international practice in jurisdictions such as the UK and the USA. It also helps with attraction and pooling of talents.

32. In our views, there is much priority in rekindling the discussion on the Companies (Corporate Rescue) Bill.

Competition Law

33. Competition plays an important role in promoting productivity and innovation. The legal framework that regulates anti-competitive conduct in Hong Kong is set out in the Competition Ordinance (Cap.619). The Ordinance came into full force and effect almost 10 years ago (14 December 2015). It is timely to now consider reviewing the operation and enforcement of the Ordinance, including to ensure transparency and certainty for all stakeholders.

Data Security Law

34. The Government indicated that the preparatory work for a data security law is now underway and it was said that the process will be long and complicated. We look forward to the soonest opportunity of contributing to the discussion of the draft legislation.

Children Proceedings (Parental Responsibility) Bill (“Children Bill”)

35. The Children Bill aims to implement the recommendations put forward by the Hong Kong Law Reform Commission, in its 2005 Report on Child Custody and Access. The Bill aims to introduce into Hong Kong family law a “parental responsibility” model that emphasizes the continuing responsibilities of both parents towards their children (and takes away the focus from their individual parental rights). We have repeatedly indicated our long-standing support to the Children Bill and advocated for the legislation of the Children Bill. In our view, Hong Kong is seriously lagging behind in our legislation in relation to children. Under the current legislative regime, children’s best interests are not adequately catered for.

36. The legislation of the Children Bill should be considered with the following macro perspectives;

- As an international city and party to the UN Convention on Rights of a Child, Hong Kong is seriously lagging behind in this important area of law and in its duty to the children of Hong Kong.
- An update on the legislation for Hong Kong would not only put Hong Kong back to the international landscape on children law, it would also enable Hong Kong to join hands with comparable jurisdictions to steer and to advance relevant regimes on child protection.
- The Children Bill helps parents to gain the correct concepts in their care of children. This will hopefully help reduce incidents of domestic violence and child abuses.
- An update in the children's law would bring home child-focused legislation regime. That helps enhance the reputation and also the competitiveness of Hong Kong in the international community. That is amenable to other policy initiatives of Hong Kong in talent hunts and in attracting businesses (including family offices) to Hong Kong.

37. We understand the Government might require some surveys or studies before it resumes the legislation exercise. We urge the Government to expedite any necessary reviews.

Continuing Power of Attorney Bill

38. Another law reform which calls for the Government's attention is the Continuing Power of Attorney Bill ("CPA" Bill). CPA is significant to Hong Kong in particular when Hong Kong is facing an ageing society. The consultation on the CPA Bill was put out in 2017. We do not see any follow up after the consultation. We ask the Bill be put to the Legislative Council as soon as practicable for discussion.

Conveyancing

39. We wish to point out that when the Government is working on the implementation of the Land Titles Ordinance upon the “New Land First” Proposal¹¹, it should not lose sight of the Land Registration Ordinance Cap 128 (“LRO”) and its regulations. We have been advised by our members that the operation of the LRO and its regulations have not been kept updated to address the evolving needs of the markets. A detailed review of the above, in parallel with the on-going discussion on the implementation of the LTO, is required.
40. In the policy formulation to help boost the economy of Hong Kong, insofar as conveyancing is concerned, we ask the Government to keep policies in check to ensure that the interests of the public is well protected, such as means to deter imposter frauds and the review of the Non-Consent Scheme regime.

LEGAL EDUCATION AND TRAINING

41. We set out briefly the following policy dimensions which we ask to be taken into account in the consideration and formulation of policy on legal education and training. In our views, the relevant policies should aim
- To strengthen Hong Kong’s unique role of being the only jurisdiction in PRC to adopt common law system.
 - To foster confidence in the Hong Kong legal profession among different sectors of local and international community by facilitating opportunities for collaboration between the Hong Kong legal profession and different sectors within and outside Hong Kong jurisdiction.
 - To provide a supportive environment for legal education and training through innovative means thereby facilitating a sustainable and reputable Hong Kong legal profession.

¹¹ See: https://www.landreg.gov.hk/en/title/faq_ltb_5.htm

- To support members of the legal profession to explore different ways of conducting legal practice while maintaining professional standards and international reputation.
- To empower law firms of all sizes to have sufficient access to feasible options to align themselves with professional standards of an internationally acceptable level.

CONCLUDING REMARKS

42. National security is of top priority for the survival and development of any jurisdiction. The passing of the Article 23 legislation in Hong Kong¹² is of immense significance for Hong Kong. With a comprehensive legal system for safeguarding national security being established, Hong Kong's focus could be turned to address the challenges to the economy, to improve people's livelihoods, and to maintain the long-term prosperity and stability of the city. In this regard, laws and legal policies play an important role. It is of utmost importance to ensure our laws and legal policy can meet the socio-economic needs, and ferment a favorable environment for Hong Kong on the above.
43. The Law Society attaches great importance to upholding the rule of law and safeguarding Hong Kong's robust legal system. We believe that those policy initiatives set out in this Submission help the Government in formulating legal policies and driving legislative reforms, with a view to providing Hong Kong with one of the best legal environments for the future.

**The Law Society of Hong Kong
23 September 2024**

¹² The Safeguarding National Security Ordinance took effect on 23 March 2024.



A Paper on Sports Law Development for Hong Kong

1. The Law Society of Hong Kong is pleased to note Hong Kong has made significant strides in sports development in recent years. This is exemplified by the huge success of various Hong Kong sportspersons and athletes in the Paris Olympics 2024. The Law Society takes note of the growing importance of the sports industry globally, and considers that the HKSAR Government should have in place a comprehensive policy for sports and esports development. This helps the Government promote sports and esports and establish Hong Kong as a sports law centre.
2. This paper sets out the policy proposals put forward by the Law Society on the above. These proposals are framed from legal perspectives and are on sports law development and the promotion thereof.
3. In this paper, we shall also put forth our suggestion to establish a “Sports Law Office” (or “Sports Law Development Council”, or any other names to be further deliberated), which oversees implementation of the above proposals. For ease of reference, this body shall be identified and referred to as the “Sports Law Office” in this paper.
4. With the strength of more than 13,000 members practising in a wide array of areas, with their expertise, networking and connection, the Law Society is prepared to lead and help with the setting up of the Sports Law Office, and to also assist in the operation of the Office.
5. The paper is divided into two main parts. The first main part (paragraphs 15 to 39) is on the “non-contentious” side of sports law development. The second main part (paragraphs 40 to 50) is on the “contentious” side. The two parts are on different subject matters but they are inter-related, as explained in the ensuing paragraphs.

Introduction: National Goal¹

6. Enhancement of sports development by the HKSAR Government sits well with our country's development goal of building a strong sports nation (“体育强国”).
7. After the 33rd Summer Olympic Games in Paris in 2024 (Paris Olympics 2024), when President Xi Jinping met the Chinese Olympians on 20 August 2024 upon their return to the country, President Xi said that the outstanding achievements of the Chinese sports delegation in the 2024 Olympics not only demonstrate the progress in China's sports development, but also reflect the accomplishments in Chinese modernization².
8. The significances of sports and sports industry are not to be underestimated. Among other things, the total scale of sports industry in the world continues to be on the increase. The added value of the sports industry as a share of GDP continues to grow, sports culture has flourished, sports diplomacy has become increasingly active, and work in the fields of sports science and technology, sports education, sports talents, and sports culture have all advanced with great progress. In short, the sports industry has been fully integrated into the overall economic and social developments, adding momentum and contributing to the development of various countries.
9. To illustrate, it was reported that as of 2022, the total scale of China's sports industry has jumped to 3.3 trillion yuan, with value added reaching 1.3 trillion yuan, representing year-on-year growth of 5.9% and 6.9%, respectively, far exceeding the GDP growth rate in the same period³. In other reports, it was mentioned that

¹ See https://www.gov.cn/zhengce/zhengceku/2019-09/02/content_5426485.htm; http://www.scio.gov.cn/gxzl/srxxxjptzgzl/ktxx/202408/t20240808_858088.html

² The following was reported in the media in China, upon the return of the Chinese delegation from Olympia 2024 in Paris – “體育強則國家強，國運興則體育興。自十八大以來，國家高度重視體育事業發展，對體育強國建設作出了整體謀劃和系統部署，推動體育事業發展不斷取得新突破。”

³ See 《2022 年全国体育产业总规模与增加值数据公告》
https://www.gov.cn/lianbo/bumen/202312/content_6923494.htm

- “Since 2023, sports consumption has developed strongly, and has become an important engine to drive overall consumption growth [in Mainland China]. In the first quarter of this year [2024], total sales of sports and recreational goods across the country grew by 14.2% year-on-year, much higher than the 4.7% growth rate of total retail sales of consumer goods, and sports consumption is playing an increasingly important role in tapping the potential of the domestic market and fueling economic growth.”⁴.
- “China has successfully organized a series of major sports events, such as the Universiade, the Asian Games, the Academic Youth Conference and the Fourteenth National Winter Games.

Chengdu, Hangzhou, Nanning and Hulunbeier (呼伦贝尔) [from July 2023 to April 2024] realized more than 130 billion yuan in sports and related consumption during the events. Accommodation, catering and retail spending during the Universiade [in the same period] amounted to 43.83 billion yuan, a 14.2 per cent increase from the previous year, while related spending during the Asian Games amounted to 48.96 billion yuan, a 15.6 per cent increase from the previous year. These figures show that sports events have become an important engine for local economic growth.”⁵

10. We consider it is high time the HKSAR Government to develop and to promote sports law to compliment the sports development both nationally and locally. A comprehensive policy for sports law is of paramount importance to Hong Kong.
11. In our views, a comprehensive policy for sports law development for Hong Kong should embrace the following policy dimensions, i.e.
 - (a) Provision of services that invites and attracts sports-related business and investment interests to Hong Kong;

⁴ See 國家體育總局：《中国体育产业加速奔跑》(2024 年 8 月 9 日)
<https://www.sport.gov.cn/n20001280/n20067608/n20067635/c27991280/content.html>

⁵ See 國家體育總局：《大型运动会实现体育及相关消费超 1300 亿元》(2024 年 4 月 22 日)
<https://www.sport.gov.cn/n20001280/n20067608/n20067635/c27659879/content.html>

- (b) Education and promotion of sports, including the raising of awareness of the welfare, benefits, rights and entitlements of sportspersons and athletes;
 - (c) A clear legal framework on sports law; and
 - (d) A strong and robust dispute resolution regime for sports disputes; this regime should be made available for and be applied to sports disputes arising both locally and internationally.
12. In legal parlance, policy parameters (a) to (c) in the above involve what could be called “non-contentious” matters, while parameter (d) would be for “contentious” matters.
13. Non-contentious and contentious matters for sports relate to each other and both are strategically important for Hong Kong, when Hong Kong strives to be developed as a centre for sports in the international landscape. The rationale is apparent: when Hong Kong has developed a reputable infrastructure for sports, stakeholders in sports would be attracted to choose Hong Kong for sports related activities, be it hosting or participating in sports event, establishing a place of business, choosing Hong Kong laws as governing law for contracts, or resolution of sports disputes.
14. We also ask that after the Government has put out the policy on sports and have set up the requisite infrastructure, the policy on sports be closely reviewed. We make this suggestion, as we anticipate rapid developments in this area with various legislative amendments to be put forward. We ask that in due course when the policy is to be reviewed, the Government should consider at that stage as to how the sports law regime of Hong Kong could assist Hong Kong in the continual performance of its established role as “super-connector” and “super value-adder”, to continue to contribute to the growth of the national sports industry.

Non-contentious side: driving the development of related industries and promoting economic growth

15. It is not the intention of this paper to go into and discuss each of the policy parameters (a) to (c) above in details, and in any event, those policy parameters involve also non-legal issues. In this paper, we are to set out a blue-print or a “wish-list” for sports law development for Hong Kong. The wish-list aims to invite deliberations by the Government’s bureaus and departments (such as the Department of Justice (“DOJ”) and the Culture, Sports and Tourism Bureau (“CSTB”)) as well as the relevant authorities (such as the Insurance Authority, the Equal Opportunities Commission etc) on what Hong Kong should do to promote sports.
16. For the wish-list on non-contentious legal practices and sports-related issues, we invite attention to the following issues.
 - A. *Transactional work for Sports / Esports Games*
 - (i) Legal and compliance work relating to the organisation, management and promotion of sports and esports games; and
 - (ii) Promotion of equal opportunities of sport persons.
 - B. *Sponsorship*
 - (i) Individual sponsorship contracts;
 - (ii) Team sponsorship contracts;
 - (iii) Club sponsorship contracts; and
 - (iv) Event sponsorship contracts.
 - C. *Intellectual Property Rights*
 - (i) Trademarks (e.g. logos);
 - (ii) Copyright (e.g. event format and contents);
 - (iii) Designs, Patents and Trade Secrets (e.g. innovation and creatives - sport apparel, gears, equipment); and
 - (iv) Branding of the event and the participating teams and clubs.
 - D. *Media and Licensing Rights*
 - (i) Entertainment-related contracts (e.g. broadcasting, streaming and content rights);
 - (ii) Licensing and assignment of intellectual property rights; and
 - (iii) Commercialization of intellectual property rights and in particular merchandizing.

E. Employment, Participation and Agency Issues

- (i) Employment and participation contracts between clubs and sport persons;
- (ii) Agency or management contracts between sport persons and sport agencies, managers and coaches;
- (iii) Endorsement contracts; and
- (iv) Collaboration contracts.

F. Environmental, Social and Governance for Sport Organisations and Businesses

- (i) Legal work regarding ESG for sports and esports industries and businesses.

G. Gaming

- (i) Government gaming policy review; and
- (ii) Regulatory and compliance issues.

H. Insurance

- (i) Individual, team and club event insurance policies;
- (ii) Event organiser insurance policies.

I. Legal Rights and Value Creation

- (i) Promotion and enhancement of awareness on the legal rights and values of sport persons through Hong Kong Sports Institute programmes, sports clubs and public education; and
- (ii) Commercialization and value creation of sport activities.

17. Added to the above list are (i) equity funding for sports industry, (ii) event management law, (iii) immigration law for sport professionals, (vi) anti-doping law and (v) practices in and/or arising from industries related to sports (such as manufacturing of sports equipment and medical services offered to sportspersons). The list is not exhaustive.

18. The matrix in the above commands attention from a wide spectrum; and they themselves form the bedrock for a legal framework for sports law for Hong Kong. Each of the issues identified in the above merits careful review and deliberation with the existing laws and regulations in Hong Kong.

19. Examples of the legal practices which the HKSAR Government could steer with new governance thinking include for example commercialisation of intellectual property rights and protection thereof, and value creation arising therefrom (items C and I in the above).
20. Illustrations⁶ of the commercialisation of the fame of sportspersons are clothing, accessories and equipment used by the champion sportspersons at the Olympic Paris 2024, when there was a sudden burst of market interest and demands for these commodities, upon the championship of the sportspersons⁷.
21. The flip-side of the coin is of course the entrenchment of the regime for protection of intellectual property (“IP”) rights⁸. The sports industry has bred valuable IP rights and the industry itself is no stranger to famous brands. On the other hand, a large number of patents are invented in the sports industry, such as intelligent training systems for athletes and new technology in the field of fitness equipment. Protection of these IP rights is essential.
22. Enhancement of intellectual property protection regime helps sports industry to innovate. Specifically, through the protection of trademarks, enterprises can build up brand recognition and loyalty that helps generate revenue. It is quite clear that robust protection of trademarks and patents in the sports industry can incentivize the discovery and dissemination of new technologies which would help athletes in their competition. These in turn push for innovation in technology. This win-win cycle rides on a staunch IP regime, the protection of which need to be entrenched with clear Government policy.

⁶ See <https://export.shobserver.com/baijiahao/html/780227.html> ; <https://baijiahao.baidu.com/s?id=1806648922113868690&wfr=spider&for=pc>

⁷ For example, the hairpins used by Huang Yuting 黃雨婷, the slippers worn by the Quan Hongchan 全紅嬋, the tennis racket used by Zheng Qinwen 鄭欽文. See news article: <https://baijiahao.baidu.com/s?id=1807406225375452096&wfr=spider&for=pc>

⁸ For example, in 2021, after Quan Hongchan became famous for her gold medal in Olympics, there was a phenomenon of several companies snapping up trademarks in her name. This incident illustrates the need to consolidate the intellectual property protection system. See news article: https://m.thepaper.cn/baijiahao_14096292

23. Another issue which the HKSAR Government should take lead to steer is *Personality Rights* (肖像權). Currently, personality rights are not statutorily recognized in Hong Kong. Redress to misuse or abuses of a person's name, image, likeness, or other unequivocal aspects of their identity could only be addressed under the common law of passing off. The Law Society considers that in consequence of the rapid development of sports and esports, there would be an increasing risk of a sportsperson's image and likeness being exploited for commercial or pecuniary gains. Issues on personality rights, from the perspectives of protecting the legal rights of sportspersons and the public, should receive in-depth analysis and serious consideration by the HKSAR Government.
24. As a corollary, the branding of products relating to the fame of sportsperson is equally important and should receive due attention. The development of a successful brand relating to sportspersons could drive economic growth by stimulating consumer domestic demands. That would attract attention of those non-sports fans to the sports world and thereby enhance sports awareness of the public⁹. In this regard, sportspersons can become celebrities, and we can readily see the interface between sports law and entertainment law.
25. The above are equally applicable to and easily applied *mutatis mutandis* to esports.
26. Sponsorship would be another issue the handling of which also calls for legal expertise. There are on the market international and well-known conglomerates and enterprises with famous brands and household names. They are willing to offer and provide sponsorship for sports programs. Their interests and confidence in the sponsorship arrangement are only to be underpinned by a strong sports law regime.
27. We wish to point out that sports law is an expertise on its own and can be different from the "conventional" legal practices such as employment law

⁹ An example is the brand of *LI-NING* – *LI NING* is a professional sporting goods brand founded by the Chinese gymnast Mr. Li Ning (aka "Prince of Gymnastics") in 1990, and is a Chinese sporting goods company developed by Chinese. As of December 31, 2023, Li Ning's revenue was RMB27.598 billion, up 7% year-on-year. See report '奥运冠军转型当老板'
<https://baijiahao.baidu.com/s?id=1807424343907070264&wfr=spider&for=pc>

and contract law. Sports law itself requires specialised and technical knowledge and experience.

Government's Support for Esports

28. Esports in recent years is a rapidly emerging sector in Hong Kong and in the world. Its significance and potential are not to be under-rated.
29. South Korea could be one of the earliest countries to have a complete industrial chain of esports and is a good example of the development history of esports. After the Asian financial crisis, the South Korean government changed the industrial structure. One of the key initiatives the South Korean Government put out was its focus on the development of the game, animation industry as well as an esports industry.¹⁰ That was said to be successful. As of 2004, the annual output value of the esports industry in South Korea was almost USD 4 billion, and the value of its related industry chain even exceeded that of South Korea's automobile industry. It has been suggested that esports has helped with the South Korea's economic recovery.¹¹
30. As for China, it has also been said that China's esports industry also brings positive benefits to its economic growth.¹² These benefits are manifested in the following.
31. First, esports industry in China has generated huge revenue. The Report on China's esports Industry, January-June 2024 shows that from January to June 2024, China's esports industry generated 12.027 billion yuan in real sales revenue, a year-on-year increase of 4.43%, and that included only live streaming, tournaments, clubs and other revenue. Revenue from esports games grew steadily, with actual sales revenue of RMB 69.143 billion in the first half of the year, an increase of 7.24% year-on-year. It was said that the revenue of the esports industry relies mainly on live streaming revenue from esports games, which accounted for 79.45%;

¹⁰ See news report here: <https://baijiahao.baidu.com/s?id=1715869339924570376&wfr=spider&for=pc>

¹¹ Part 2, 《650 亿电竞市场，科技产业能分多少？》 See the full report here: <https://baijiahao.baidu.com/s?id=1610665480962182605&wfr=spider&for=pc>

¹² 电竞的多重效应: <https://baijiahao.baidu.com/s?id=1806429247213602206&wfr=spider&for=pc>

tournaments, clubs and other revenue accounted for 8.86%, 7.35% and 4.35%, respectively (although the live streaming revenue declined slightly year-on-year). Revenue growth in the esports industry can be an indication of both the continued growth of the industry and the positive effect esports bring to boosting consumption.¹³

32. Second, the development of esports industry has not only driven the sales of related hardware, software and peripheral products, but more importantly, it has delivered a huge job market. It is obvious that the rise of the esports industry provides a wealth of employment opportunities for various sectors of the community in particular young people. From professional players, coaches, and tournament planners to live hosts and commentators, the esports industry offers a wealth of career options.
33. The role of large-scale esports events in boosting a city's economy cannot be overlooked. For example, the annual League of Legends (英雄联盟) Global Finals not only attracted millions of spectators from all over the world, but also brought considerable economic benefits to the host city. During the tournament, a large number of spectators, players, staff and media reporters flocked to the city, driving the development and business of hotels, restaurants, transportation and other industries. Another example could be the online multi-party game “Honor of Kings” (王者荣耀).
34. The recent “Esports World Cup” held from July to August 2024¹⁴ serves to further illustrate the above. The Esports World Cup attracts much attention and interest. With gaming, esports offers huge development capacity and mammoth economic potential¹⁵.

¹³ See news report here: <https://baijiahao.baidu.com/s?id=1805655160522411075&wfr=spider&for=pc>

¹⁴ See the news article on the China Daily of 8 August 2024: “China beats US, wins Esports World Cup” - <https://www.chinadaily.com.cn/a/202408/08/WS66b482c9a3104e74fdb919b.html>

¹⁵ See also news article on The Standard “China goes ape over culture-boosting (22 August 2024) 'Black Myth: Wukong' video game” on the market interest on Games: <https://www.thestandard.com.hk/breaking-news/section/3/219633/China-goes-ape-over-culture-boosting-'Black-Myth:-Wukong'-video-game>. See also news article on AM730 of 23 August 2024: “國際專題 | 《黑神話：悟空》全球火紅 中國首款 3A 遊戲影響深遠”：
<https://www.am730.com.hk/%E5%9C%8B%E9%9A%9B/%E5%9C%8B%E9%9A%9B%E5%B0%88%E9%A1%8C-%E9%BB%91%E7%A5%9E%E8%A9%B1-%E6%82%9F%E7%A9%BA-%E5%85%A8%E7%90%83%E7%81%AB%E7%B4%85-%E4%B8%AD%E5%9C%8B%E9%A6%96%E6%AC%BE3a%E9%81%8A%E6%88%B2%E5%BD%B1%E9%9F%BF%E6%B7%B1%E9%81%A0/481628>

35. Policy support with clear legislative provision is evidently important for a healthy and sustainable development of esports.
36. In Mainland China, development of the esports industry has been steered with policy support in different cities. For instance, Shanghai Xuhui District on 18 February this year issued a '2024 Xuhui District Support Game and Esports Project Declaration Notice'. It was said that that allows financial support to gaming and esports related industry projects.¹⁶
37. Apart from financial support, relevant policy covers also provide for tax and fee reduction and incentives, such as those that enhance industrial support, stimulate market vitality, attract talents, and improve scientific and technological innovation¹⁷.
38. The Law Society is keen to see more supports and resources to be allocated by the Government to esports. These supports include not only funding for development, but also cross-bureau collaboration to strengthen the governance and standards of esports, for long-term development¹⁸.

Other matters

39. Ancillary to the above, we suggest the following.
 - (a) It is important that the HKSAR Government take a pro-active approach to organize and to launch education programmes for the sports and esports sectors as well as the general public to arouse and to enhance their awareness and understanding on their legal rights in relation to sports-related activities.
 - (b) The DOJ could have a review of the relevant legislation and advise the Government on any legislative amendments that could help develop and promote sports and esports.

¹⁶ See <https://www.sh-keji.cn/kjcx/12210.html>

¹⁷ See an online article: <https://www.163.com/dy/article/J4GL574D052688NB.html>

¹⁸ The recent story on the cry for funding from the Hong Kong champion on the annual Pokemon Go World Championship in Hawaii (from August 16 to 18) reinforces the need for policy attention for esports See: the news article on The Standard "Coach feels vindicated by Pokemon world champion" (22 August 2024): <https://www.thestandard.com.hk/section-news/section/4/265550/Coach-feels-vindicated-by-Pokemon-world-champion>

- (c) The policy on sports could inter-relate itself to other Government policies e.g. the policy on land use and housing. (The recent incident concerning use of land by the Hong Kong Golf Club is an example). The HKSAR Government should have a clear policy that straddles different policy bureaus. It should also be pro-active in liaising with different sports clubs and sports associations in carrying out the stated policy objectives in sports.

Contentious side: Dispute Resolution Regime for Sports Disputes

40. It would not be complete if the sports law regime of Hong Kong does not have its own dispute resolution regime, for reasons explained in the above (paragraph 13) and in the following paragraphs.
41. In June 2022, the 35th Session of the Standing Committee of the Thirteenth National People's Congress adopted the Law of the People's Republic of China on Physical Culture and Sports. This law officially sets up the sports arbitration system in China, the China Court of Arbitration for Sports ("CCAS") and provides a legal basis for the development of sports in China and defines the roles of various organizations involved in sports development. The CCAS is an independent arbitration body that handles disputes related to sports in China.¹⁹
42. Malaysia attaches great importance to the development of its sports industry. The Malaysian government's efforts to develop football, the most popular sport in Malaysia, date back to the last century. The Asian Football Confederation has situated in Malaysia since 1965.²⁰ As a member of the International Federation of Association Football ("FIFA"), the Football Association of Malaysia has received around USD7.6 million as financial support from FIFA through the FIFA Forward Development Programme (FIFA Programme) from 2016 to 2022.²¹ Malaysia has commenced construction of a National Training Centre, with funding from the FIFA

¹⁹ See full text of the Law of the People's Republic of China on Physical Culture and Sports in: https://www.gov.cn/xinwen/2022-06/25/content_5697693.htm

²⁰ See https://www.the-afc.com/en/more/news/afc_house_the_rise_of_asian_football.html

²¹ See <https://www.nst.com.my/sports/football/2023/12/993867/fam-chief-will-reply-rm35m-given-fam-fifa-tuesday>

Programme (around USD 5.2 million) and the government (around USD 9.5 million), with the aim of furthering the development of football.²² In addition to football, the Malaysian government will establish a Sports Industry Centre of Excellence with selected higher education institutions, which was reflected in the 12th Malaysia Plan Mid-Term Review released by the Economy Ministry in September 2023.²³

43. The Singapore government is said to be maintaining a long-term commitment to investing in sports programs and infrastructure in Singapore, with an annual budget of approximately S\$400 million dedicated to sports and sports development.²⁴ They have built 10 Sport-in-Precinct facilities with another 24 more projects in various development stages, while planning to build four new sports centres within 2024, covering sports such as tennis, football, swimming, basketball, baseball and more. They expressly convey their aim to provide affordable sports facilities within a 10-minute walk of Singaporeans' homes by around 2030.²⁵
44. In Thailand, the Sports Authority of Thailand together with the Thailand Arbitration Centre opened Thailand Centre of ADR for Sport in 2022, to support alternative disputes resolution for sports and to raise Thai sport industry to an international level.²⁶
45. On sports law development, there is much room for improvement for Hong Kong. At present, there is not a uniform dispute resolution mechanism within and for the sporting society of Hong Kong. While the courts in Hong

²² See <https://inside.fifa.com/football-development/fifa-forward/news/fifa-president-calls-malaysias-new-national-technical-centre-a-beacon-for-football-dreams>

²³ The Sun Daily, 12MP MTR: Government to set up centre of excellence to develop sports industry. <https://thesun.my/sport/12mp-mtr-govt-to-set-up-centre-of-excellence-to-develop-sports-industry-DD11476995>

²⁴ Paragraph 14, MCCY unveils plans for sport sector in Singapore. <https://www.mccy.gov.sg/about-us/news-and-resources/press-statements/2020/jun/mccy-unveils-plans-for-sport-sector-in-singapore>

²⁵ Paragraph 2,3,6, Enabling more Singaporeans to participate in sports, be inspired to excel and fulfil their diverse aspirations. <https://www.mccy.gov.sg/about-us/news-and-resources/speeches/2024/Mar/Enabling-more-Singaporeans-to-participate-in-sports>

²⁶ See https://thac.or.th/new_events/thac-together-with-sat-opened-thailand-center-of-adr-for-sport-aiming-to-raise-the-sport-industry-to-international-standards/; <https://thac.or.th/dispute-resolution-center-sports-arbitration-comes-to-thailand-with-tcas/>

Kong could assist, resolution of sports disputes by litigation can be lengthy, expensive, and the process *per se* is generally not confidential. A vast majority of the sports disputes rest upon the own dispute resolution mechanism of the individual sports associations. That does not necessarily achieve consistency and transparency in sports disputes resolution.

46. It stands to reason that, when Hong Kong is promoting itself as a dispute resolution hub, Hong Kong should itself put forth a uniform dispute resolution mechanism in specialised areas of law, such as sports law.
47. In our views, Hong Kong has huge potential to develop itself into an international sports jurisdiction. Hong Kong prides itself on its world-class rule of law, advanced dispute resolution system, the building of a momentous Kai Tat Sports Park and reputation as one of the most efficient places in the world - all of which align with the key criteria of an international sports jurisdiction. The HKSAR Government's policies clearly support sports development.²⁷ Furthermore, in the Outline of the 14th Five-Year Plan for National Economic and Social Development and the Long-Range Objectives Through the Year 2035, there is a clear focus to develop or help develop Hong Kong as the international legal, deal-making and dispute resolution hub in the Asia Pacific.
48. Quite fundamentally, becoming an international sports jurisdiction is a platform for national unity and that can contribute to city pride. These in turn promote economic development.
49. A key part of the above initiative will be to establish a consistent, unified, independent sports dispute resolution mechanism with a set of clear and robust dispute resolution rules, which are internationally accepted and recognized. There shall also be a dedicated centre to administer the above mechanism.
50. This paper sets out proposals on a macro and a policy level. How the dispute resolution mechanism as proposed is to be set up, and how the dispute resolution rules are to be drafted and formulated, are not within the scope of this paper. That said, the following in our view should be embodied in the further discussion of the subject matter:

²⁷ See paragraphs 151 – 153 of the Chief Executive's 2023 Policy Address:
<https://www.policyaddress.gov.hk/2023/en/p150.html>

- In addition to arbitration and mediation, other alternative dispute resolution (“ADR”) services should be offered and be made available. The above ADR could include early neutral evaluation, expert determination, and adjudication, etc.
- The resolution for sports disputes to be provided (by arbitration, mediation or other ADR services) should be final, subject to parties’ consent. The Hong Kong Courts shall have jurisdiction over the cases conducted under proposed mechanism.
- The parties using the proposed mechanism to resolve their dispute should be afforded with latest innovative and information technologies, e.g. AI, cloud systems, big data, online platform, etc.
- There shall be a strong panel of arbitrators/mediators/ADR practitioners with rich and solid experience in sports and related-fields.
- The proposed mechanism shall have its own practice and accreditation standards and code of practice for its panellists.
- Apart from dispute resolution, the platform offering dispute resolution service shall also have a branch/department offering capacity building services. These provide up-to-date training for local and overseas practitioners on sports law. That in turn helps promote Hong Kong’s standards and law in this area. It would also put Hong Kong in the fore-front and enable Hong Kong to take a leading role in the development of sports law and dispute resolution.
- The rules for dispute resolution should be internationally accepted and recognized. Subject to further discussion, the rules could be modelled on those rules adopted by the Court of Arbitration for Sport (“CAS”) with local adaptation.
- Subject to the rules to be formulated, the platform should be accorded with sufficient transparency, with respect to for example the number of cases received and the caseloads etc.

51. Another contentious matter is anti-doping which also involves non-contentious matters (see paragraph 17 above), and which could have wide

legal implications ranging from the legal/medical definition, acceptable limits/exemptions and grounds for disciplinary actions and appeals etc. This would be a significant area for growth and development in Hong Kong given its robust legal and medical standing.

“Sports Law Office”

52. We propose to set up a “Sports Law Office” (the “Office”) to implement the above various initiatives. We have noted in paragraph 3 above that, while the name of this body is to be further deliberated, the name itself does not carry any suggestion on the strength, the establishment, the positioning of the body, and whether that body is or is not within the hierarchy of the Government.
53. The setting up of the Office is central to the implementation of the initiatives being put forward. The initiatives outlined in the above are related to one another. A central body is therefore important and is key to the coordination, planning and implementation of policy initiatives, and also to the initiating of discussions, appraisals and improvements thereto.
54. As alluded to in previous paragraphs, apart from the proposals below, this paper is not to descend to any discussions on the daily operation of the Office and possible caseloads, manpower, their terms of employment or their salaries, or the funding thereof etc. These issues are relevant and significant but would be considered at a later stage.
55. An important consideration to help discharge the roles of the functions of the Office is the engagement and the involvement of the legal profession in the Office’s work, not only for dispute resolution services, but for other policy parameters as identified in this paper (see paragraph 11 above).
56. By way of background, the Law Society now has more than 13,000 members. They practise in a wide spectrum of law, including commercial, intellectual property, information technology, entertainment, cross-border corporate deal-making etc. These are on top of complex multi-national and cross-border litigation and dispute resolution. Our members have been rendering advice to clients day in day out. They possess excellent client management skills and have been helping parties to cement deals and agreements.

57. We have a good work relationship with the Government, its policy bureaus and other legal professional bodies, the Judiciary, the Law Reform Commission as well as other regulatory bodies in the insurance, securities and finance industries.
58. A large number of our members serve on the government-appointed and/or advisory bodies rendering professional advices thereto. On the other hand, we have a strong pro bono culture, which could assist the Office in its discharge of duties, if relevant and apposite. Our members are also accustomed to different regulatory regimes including anti-money laundering. We have for instance issued a Practice Direction on Anti-Money Laundering.
59. On dispute resolution, the Law Society has actively engaged in the development of different models of dispute resolution in Hong Kong, including mediation, arbitration, early neutral evaluation, etc. The Law Society has established and maintained different panels of mediators and arbitrators, all of whom are widely recognised to have special knowledge and skills on dispute resolution. Moreover, with a view to assisting the general public to resolve their disputes by mediation and/or arbitration, the Law Society has published various template clauses for mediation and arbitration and has put out information leaflets for the public.
60. On professional development, the Law Society has put forward its set of rules for empanelment and professional conduct of mediators and arbitrators. On this, the Law Society regularly reviews the Hong Kong Solicitors' Guide to Professional Conduct to ensure that solicitors' practices in the area of dispute resolution are consistently up-to-date. Training courses on various topics relating to dispute resolution are organized regularly to update our members for their practices.
61. All the above are conducive and helpful to sports disputes resolution.
62. The Law Society is prepared to and is positioned to take lead to assist the HKSAR Government to set up the Office. When the dispute resolution panel(s) for the Office is to be established, we could invite the Hong Kong Bar Association (and other professional bodies (international and local) to join the panels nominated and established from the Law Society.

Conclusion

63. This paper sets out proposals on the development and promotion of legal practices for various aspects for sports and esports, including policy initiatives for the promoting of dispute resolution services for sports and esports to organisations and individuals in Hong Kong, the Mainland and other regions.

It is important that when sports industry is gaining considerable attention world-wide, Hong Kong should be in a position to have dialogue with and be connected to the world's sports industry. It is also important that the relationship with the local, the Mainland and foreign sports bodies should be fostered. The above could be put out through the proposed Sports Law Office.

64. All in all, it is paramount for Hong Kong to progress and to morph itself into an international sports centre, to reap the ensuing socio-economic benefits and to relish in national unity and city pride.
65. The Law Society welcomes and is prepared to be engaged in further discussion with the HKSAR Government on the above.

**The Law Society of Hong Kong
30 August 2024**