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**"Subject to the actual answer
given at the Council Meeting"**

LEGCO QUESTION NO. 2 (Oral Reply)

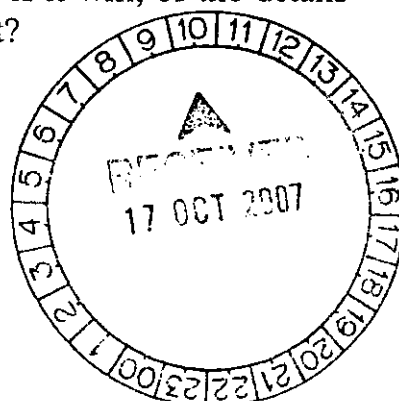
Asked by: Dr Hon Fernando Date of meeting: 17 October 2007
CHEUNG
Chiu-hung

Replied by: Secretary for
Constitutional and
Mainland Affairs

Question:

It is stipulated in the subsidiary legislation of the Electoral Affairs Commission Ordinance that no person may use the information relating to any person contained in a register or an extract from such a register for any purpose unrelated to an election. Members returned by Legislative Council ("LegCo") functional constituencies ("FCs"), therefore, cannot make use of such information for sending newsletters on their work in the legislature to their constituents, and can only rely on the professional bodies concerned or registration institutions of the relevant professions to do so on their behalf. However, some professional bodies and registration institutions have refused to send newsletters on behalf of the LegCo Members representing the FCs to which they belonged. In this connection, will the Government inform this Council whether it will:

- (a) review and amend the aforesaid subsidiary legislation to allow LegCo FC Members to use the relevant information for communication with their constituents while they are in office; if it will, of the details of the review and amendments; if not, the reasons for that;
- (b) require professional bodies to assist the LegCo FC Members concerned in communicating with their constituents; if it will, of the specific implementation plan; if not, the reasons for that; and
- (c) formulate other measures to facilitate the communication between LegCo FC Members and their constituents; if it will, of the details of such measures; if not, the reasons for that?



Reply:

Madam President,

We can appreciate that, from the stand-point of Members of the Legislative Council ("LegCo") functional constituencies ("FC"), it is important to communicate with their constituents in order to keep them informed of the Members' work. In considering the channels of communication, due regard should be given to various factors including the protection of personal data and privacy of electors, the readiness on the part of electors and other members of the constituencies to receive such communication, as well as individual circumstances of the bodies involved in handling such communication channels. Our reply to the questions is set out below.

- (a) According to section 41 of the Electoral Affairs Commission (Registration) (Electors for Legislative Council Functional Constituencies) (Voters for Election Committee Subsectors) (Members of Election Committee) Regulation (Cap. 541, sub. leg. B), the Electoral Registration Officer may make available an extract from any published register of electors "for any purpose related to an election", to any person that Officer considers appropriate. When the Electoral Registration Officer makes available an extract of the register, he/she must specify the particular election for which it may be used. A person to whom an extract is made available must not use the information on the register for a purpose other than a purpose related to the specified election. The Regulations further provide that it is an offence to use any information relating to a person contained in a register or an extract from such a register "for a purpose other than a purpose related to an election".

The above provisions are aimed at striking a balance between two considerations, i.e. the need to provide basic information on electors to relevant parties (such as candidates and the political groups or parties which support them) to facilitate the planning and conduct of election-related activities on the one hand, and the need to protect

personal data and the privacy of electors on the other.

If LegCo FC Members were allowed to use information contained in an electoral register for communication with their constituents while they were in office, and if such communication was not for any purpose related to a specified election, then the law would need to be amended. Since an electoral register carries the names and addresses of electors, any proposal to amend the law must be considered very carefully. In particular, the protection of personal data and the privacy of electors is an important consideration. We have no current plan to introduce any legislative amendments in this regard.

- (b) It is noted that in the LegCo FCs, not all people who are eligible to register as electors have chosen to do so. Even for registered electors, it cannot be assumed that all of them would wish to receive communication from LegCo Members. The will of members of the sectors concerned on receiving such communications should be respected. As such, professional bodies in the LegCo FCs should consider how to assist LegCo Member of relevant constituency to communicate with his/her constituents, taking account the respective circumstances of the constituency and the professional body itself.

In addition, if legislative amendments are introduced to allow LegCo FC Members to use information contained in an electoral register for purposes other than a purpose related to an election, or to require professional bodies in LegCo FCs to assist relevant LegCo FC Members to communicate with their constituencies, individuals interested in running for future elections might be concerned that this would give an undue advantage to incumbent LegCo Members. In considering any arrangements that may have an impact on election, we need to safeguard the principle of fair, open and just elections.

- (c) The remuneration package for LegCo Members includes, amongst other components, an allowance for operating expenses reimbursements ("OER") and other one-off provisions. The OER can

be used to cover expenses for the running of Members' offices, including staff expenses and other support services (e.g. publication of newsletters relating to LegCo business, postage, publicity materials and activities etc.). Moreover, there is an item under the one-off provisions for LegCo Members to set up their offices and purchase information technology and communication facilities. In addition, the Administration makes available to each LegCo Member a central office free of rent.

The above measures provide considerable amount of resources to help LegCo Members communicate with their constituents, and facilitate their work.