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January 2012

Dr Vincent CHENG Hoi Chuen, GBS, JP

Chairman of the Independent Commission on Remuneration for
Members of the Executive Council and the Legislature, and
Officials under the Political Appointment System of the HKSAR

Dear

Review of the Remuneration Package for Legislative Council Members

I refer to your letter dated 13 January 2012, which responded to the submission we made to you in March 2011 in relation to our proposed enhancement of the level of the Operating Expenses Reimbursement ("OER") of Legislative Council ("LegCo") Members. Members of the Subcommittee, who represent all sectors of Members of the Council, are extremely disappointed with the unduly long time taken by the Independent Commission to consider our proposal and the rigid approach in responding to the pressing needs of LegCo Members to address the high turnover rate of our supporting staff and to have the necessary resources to perform their LegCo work.

In your letter, you have highlighted two points. First, you consider that the remuneration package of LegCo Members should remain the same within the entire LegCo Term. Any substantial changes should take effect from the next LegCo Term. Second, you consider that OER is part of the remuneration package and any substantial changes should also take effect from the next LegCo Term unless with strong justifications. You noted that there are precedents, in 2001 and 2006 respectively, where mid-term increases

in OER were made having regard to the specific circumstances and considerations at the time.

On the first point, we agree with you that for Members' monthly remuneration and personal benefits, any changes other than adjustments to reflect inflation, etc. should take effect from the next LegCo Term to avoid any real or perceived conflict of interest. This was the reason why the Subcommittee decided at the start of the current Term to conduct separate reviews on OER and Members' monthly remuneration, which are subject to different determining factors and considerations. As you are aware, OER and Members' monthly remuneration serve different purposes. OER is a reimbursement claims arrangement to facilitate Members to engage staff and operate their offices. All claims are subject to stringent scrutiny and public inspection. The monthly remuneration is Members' take-home pay and is directly related to Members' responsibilities and time spent on LegCo business. The adjustment of the monthly remuneration is not dependent on the adjustment of the OER. The two are subject to different considerations.

The Subcommittee is about to complete its review on Members' monthly remuneration. We shall be writing to you shortly with our views and recommendations. It has taken us some time to complete this review as we need to make reference to overseas practices and obtain data from our Members based on their actual experiences in the past three years. We aim to submit our proposals to you by early February 2012. We believe you will have ample time within the remainder of the current Term to consider and put forward your recommendations to the Administration for implementation in the next LegCo Term.

On your second point, which is the implementation date of changes to the OER, this is what Members of this Council are presently most concerned about. To ease your mind on the timing of conducting reviews on the remuneration package, you may wish to refer to the view of the then Commission on Remuneration for Members of the Legislative Council in its Report published in June 1995, in response to Members' proposal that the whole remuneration package for LegCo Members should be subject to a full review every two years instead of three to five years. The then Commission wrote: "We agree with the logic of this argument and recommend that a comprehensive review should be conducted a year before the start of each new LegCo term. However, the Commission can, in the interim, look at specific areas¹".

¹ paragraph 40 of the Response of the Commission of Remuneration for Members of the Legislative Council to Comments on the Report of the Former Commission

In our current review of the OER, instead of putting forward statistics based on past computation methods to justify for increases in the OER, we conducted a comprehensive study of the needs of Members in the support they are given in performing their LegCo work. I recall, in our previous discussions, we were often reminded by you and your members that we should provide more concrete justifications to substantiate our need for a higher level of OER. That was exactly the point you made in your report published in November 2007 which said that in the absence of sufficient empirical data to allow an informed judgment, "the Independent Commission is therefore not convinced that the OER should be increased further at this stage. The Independent Commission will keep in view the position and, if deemed appropriate, revisit the level of the OER some time during the course of the four-term LegCo".

At the start of this Term, we commenced our study in January 2009 but as most of the staff were relatively new, due to 20 Members being new Members and a general high turnover rate of Members' Personal Assistants, we were only able to complete our surveys and collect the statistics on the utilization of Members' OER for 2008-2009 in phases, and conducted consultation among Members, Members' staff and members of the public from September 2010 to February 2011. We paid special attention to the reactions of the media and the public as our proposal involved a raise of some 40% of the OER. However, we received overwhelming support from the general public that Members should have the resources to maintain a team of high quality staff to help them perform a good job. Our submission to you in March 2011 has in fact reflected the views of all stakeholders.

We hope that the Independent Commission would support the early implementation of the adjustment of the OER ceiling to enable Members of the current Term to maintain their current staff for the remainder of the Term. As you are aware, the last session of a LegCo Term is always the busiest session. In this session, we still have quite a number of major bills to deal with. As stated in our submission and further explanations given to you and your members at our meeting on 21 June 2011, the turnover of full-time staff of LegCo Members stood at 34%, a level which none of us could accept. The current portion of OER for paying staff salaries is indeed inadequate making it practically impossible to increase the pay of any staff member. We cannot afford to lose any of our current staff as there is no way we can find any replacement in view of the short tenure that we can offer. We therefore hope that the Independent Commission would support the implementation of the revised OER ceiling to

take effect from October 2011 to address to some extent the great difficulties LegCo Members are now facing in maintaining a team of good quality staff to assist them in their work.

I have circulated the draft of this letter to all Members of this Council and have their strong support for urging the Independent Commission and the Administration to deal with the Subcommittee's proposals in respect of the enhancement of Members' OER expeditiously.

I look forward to hearing from you soon.

With best regards,

Yours sincerely

(Ms Emily LAU)
Chairman, Subcommittee on Members'
Remuneration and Operating
Expenses Reimbursement

c.c. All members of the Independent Commission
Director of Administration
All Hon Members of the Legislative Council