

# 立法會

## *Legislative Council*

LC Paper No. CB(2)1094/09-10(04)

Ref : CB2/PL/CA

### **Panel on Constitutional Affairs**

#### **Background brief prepared by the Legislative Council Secretariat for the meeting on 19 March 2010**

#### **Designated display spots for candidates of the 2010 Legislative Council by-election**

#### **Purpose**

This paper provides background information on issues relating to designated display spots for candidates of the 2010 Legislative Council (LegCo) by-election.

#### **Management Scheme for the Display of Roadside Non-Commercial Publicity Materials**

2. The Administration briefed the former Panel on Planning, Lands and Works (the PLW Panel) at its meeting on 7 March 2003 on a proposed management scheme for the display of roadside non-commercial publicity materials. According to the Administration, the objective of the proposed scheme is to put in place a more efficient system for the management and processing of applications for the display of roadside non-commercial publicity materials. Under the proposed scheme, applications and approvals for display of publicity materials would be temporarily suspended or revoked during election periods.

3. While a majority of the members of the PLW Panel supported the proposed scheme, they had made various suggestions relating to the number of designated spots to be allocated to LegCo Members, allocation of unused designated spots, choice and location of designated spots, display period, content of publicity materials and application period. The Administration had accepted most of the suggestions made. For the detailed response of the Administration to these suggestions, members may wish to refer to the information paper provided by the Administration to the PLW Panel [LC Paper No. CB(1)1190/02-03(01)].

4. The Management Scheme for the Display of Roadside Non-Commercial Publicity Materials (the Scheme) has been implemented by the Lands Department since 1 April 2003. The Implementation Guidelines of the Scheme issued by the Lands Department are in **Appendix I**.

## **Written question on "Removal of Roadside Publicity Materials During Election Committee Subsector Elections"**

5. Hon LAU Chin-shek raised a written question on "Removal of Roadside Publicity Materials During Election Committee Subsector Elections" at the Council meeting on 22 November 2006. In his reply, the then Secretary for Constitutional Affairs advised that according to the Implementation Guidelines of the Scheme, applications and approvals for the use of the designated spots would be temporarily suspended or revoked during election periods. During those periods, spots on public land for candidates to display their election advertisements would be designated by Returning Officers. Existing publicity materials put on designated spots under the Scheme would have to be removed, if the designated spots were designated by Returning Officers for the display of election advertisements. The removal should be effected before the start of the nomination period. As regards the other designated spots if there remained any, the publicity materials could continue to remain on display. The question raised by Hon LAU Chin-shek and the reply by the then Secretary for Constitutional Affairs are in **Appendix II**.

### **Recent development**

6. At the House Committee meeting on 5 March 2010, some Members expressed concern about the notice given by the Administration to incumbent LegCo Members and District Council members for the removal before 15 March 2010 of publicity signboards displayed at certain public spots in connection with the LegCo by-election. In the light of Members' concern, the Administration has undertaken to consult the Panel at the forthcoming meeting on 19 March 2010. Pending the Panel's discussion, the Administration has suspended the removal action for the time being and will decide on the issue on or before 26 March 2010.

Council Business Division 2  
Legislative Council Secretariat  
17 March 2010

## 路旁展示非商業宣傳品管理計劃實施指引

# Management Scheme for the Display of Roadside Non-commercial Publicity Materials Implementation Guidelines

### 1. 指定地點的選擇

立法會議員及區議會議員可自選宣傳品展示點，所選展示點不得影響交通安全及市容。其他使用者，例如政府部門及非牟利團體的指定展示點則由區議會、民政事務處及地政處協商決定。

### 2. 指定展示點的分配

#### (a) 立法會議員

地方選區產生的立法會議員，每位可在其地方選區所覆蓋的每一個區議會選區選取 50 個指定展示點<sup>1</sup>。功能界別及選舉委員會產生的每位議員，可在全港 18 區每區選取 9 個指定展示點。議員須將其指定展示點平均分布於各區議會選區內。除了有特別需要的部分功能界別議員外，議員在區議會選區內的指定展示點，可超過配額最多 2 個展示點，惟每人所得指定展示點的總數不得超越以上所述的總體限額。地政處每年會為分配指定展示點進行抽籤。

#### (b) 區議員

每位區議員可在其選區內選取 10 個指定展示點；實際數目視乎個別區議會對地政處提出的意見而定。

(c) 在指定展示點供不應求的情況下，地政處會抽籤決定分配展示點。有關申請人均會獲邀監察抽籤過程。

(d) 在立法會或區議會議員放棄使用其指定展示點；該等指定展示點將撥入其他使用者，例如政府部門及非牟利團體的配額內。他們日後有需要時，可從這配額中選取其展示點。

#### (e) 其他使用者

(i) 每個區議會及其轄下委員會在其區內可使用至少 30 個指定展示點。

(ii) 政府部門(包括民政事務處)在全港 18 區內每

### 1. Choice of Designated Spots

Members of the Legislative Council (LegCo) and District Councils (DCs) can choose designated spots that will not affect traffic safety and streetscape for the display of their publicity materials. Other users', i.e. government departments' and non-profit making organizations', designated spots are determined jointly by the DCs, District Offices (DOs) and District Lands Offices (DLOs).

### 2. Allocation of Designated Spots

#### (a) LegCo Members

Each LegCo Member from Geographical Constituencies (GC) can choose 50 designated spots in each of the DC districts within his/her own GC<sup>1</sup>. For Functional Constituencies (FCs) and Election Committee (EC), each Member may choose 9 designated spots in each of the 18 DC districts. Members shall distribute their designated spots evenly among the DC districts. With the exception of some Members from FCs with special needs, Members may exceed their aforesaid quota by up to two spots in a DC district provided that the overall total number of their designated spots is not exceeded. Annual balloting of designated spots will be organised by DLO.

#### (b) DC Members

Subject to any advice of individual DCs to the DLO, each DC Member may select 10 designated spots in his/her own constituency.

(c) When there are competing applications for designated spots, a ballot will be conducted by the DLO to determine the successful applicant. All applicants will be invited to witness the balloting process.

(d) When designated spots are not taken up by LegCo or DC Members, they will be transferred to the pool for other users, i.e. government departments and non-profit making organizations. These Members may select designated spots from the pool when they need them in future.

#### (e) Other users

(i) Each DC and its committees may take up not less than 30 designated spots within the district.

(ii) Government Departments including DOs may take up not less than 50 designated spots per district within the

<sup>1</sup> 以下 8 區除外：大埔、沙田、西貢、元朗、離島、荃灣、葵青及灣仔

<sup>1</sup> With the exception of eight districts (Tai Po, Sha Tin, Sai Kung, Yuen Long, Islands, Tsuen Wan, Kwai Tsing and Wanchai)

區可使用至少 50 個指定展示點。

(iii) 每區至少有 100 個指定展示點供非牟利組織使用，以供展示以該區居民為對象的宣傳品。非牟利組織包括由政府資助或根據《稅務條例》第 88 條獲豁免繳稅的非政府組織及慈善團體、根據《社團條例》(第 151 條)登記的組織、根據《職工會條例》(第 332 條)及《職工會登記規例》(第 332A 條)登記的職工會及合法註冊的團體。

(iv) 每次獲批准的申請團體最多可獲分配 5 個展示點。

(f) 地政處協同民政事務處及區議會，根據區內可用的指定展示點數目，分配展示點給各類別使用者。

### 3. 使用期

給予上文第 2(a)及(b)段類別申請人的批准期，一般涵蓋其在有關議會的整段任期。至於上文第 2(e)段類別申請人的批准期，則為兩個曆月，惟不包括最後兩天。在不引致對其他申請者的利益構成任何損失的原則下，延長展示期的申請可能會獲得批准。

### 4. 宣傳品尺碼

宣傳品的高度不得超逾 1 米，長度不得超逾 2.5 米。展示有關規格的說明圖則，載於圖一。

18 districts.

(iii) For non-profit making bodies, there will be a minimum of 100 designated spots per district for the display of publicity materials serving the local community. Non-profit making bodies include non-governmental organisations (NGOs) and charitable bodies either subvented by government or exempted from paying tax under Section 88 of the Inland Revenue Ordinance, organisations registered under Society Ordinance Cap. 151, trade unions registered under Trade Union Ordinance Cap. 332 and Trade Union Registration Regulations Cap. 332A, and legally registered bodies.

(iv) Each successful applicant will be allocated a maximum of 5 spots.

(f) The DLOs will co-ordinate with DOs and DCs on the number of spots to be allocated to the different users with reference to the number of designated spots available in the district.

### 3. Term

Approval given to applicants under paragraph 2(a) and (b) above will normally cover the tenure of their term with their Councils concerned. The approval under paragraph 2(e) above will cover a display period of two calendar months less the last 2 days. Applications for extension of display periods may be granted provided that there is no prejudice to other applicants.

### 4. Size of Publicity Materials

The size of the publicity materials to be displayed shall not exceed 1 metre in height and 2.5 metres in length. An illustrative plan showing the specifications is at Figure I.

圖一. 路旁宣傳橫額/街板規格

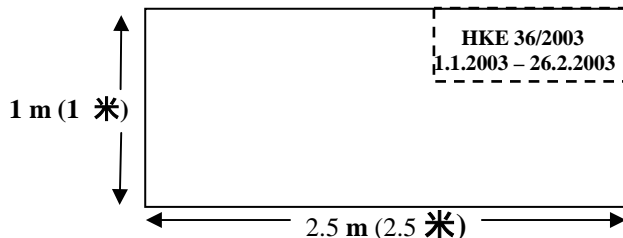


Figure I. Roadside Banner/Board Specifications

在宣傳橫額/街板右上角的核准展示期的字體不得小於 2.5 厘米 x 2.5 厘米。

Each character of the approval number and display period at the right-hand corner of the banner/board must not be smaller than 2.5 cm x 2.5cm.

### 5. 指定展示點的位置

宣傳品可面向行人路及行車道。惟高速公路旁展示的宣傳品只可面向行人路；同一位置上分別面向行人路及行車道的宣傳品，會作佔用兩個指定展示點計算。

### 6. 交通安全守則

為交通安全起見，指定展示點一般不可位於下列地方：

- (a) 行車或行人天橋上；
- (b) 政府建造行人過路處，即燈號控制過路處、斑馬線、或行人輔助線的交通上游 30 米距離之內；
- (c) 交通交匯點及行人過路處 30 米內的路中心分

### 5. Location of Designated Spots

Publicity materials will be allowed to face both the pavement and the roadway. However, if displayed alongside an expressway, publicity materials will only be allowed to face the pavement. Publicity materials facing both the pavement and the roadway will be counted as two designated spots.

### 6. Road Safety Code

For road safety purposes, designated spots will not be located :

- (a) on flyovers or footbridges;
- (b) within 30 metres on the traffic upstream side of government built pedestrian crossings including signal-controlled crossing, zebra crossings or cautionary crossing;
- (c) on central divider of roads within 30 metres from road

隔欄；

- (d) 雙程路與大路交匯處。但單程路之內的指定展示點如不阻擋駕駛者出大路的視線，則不受 30 米安全距離的限制。

說明 30 米安全距離的圖則，載於圖二。

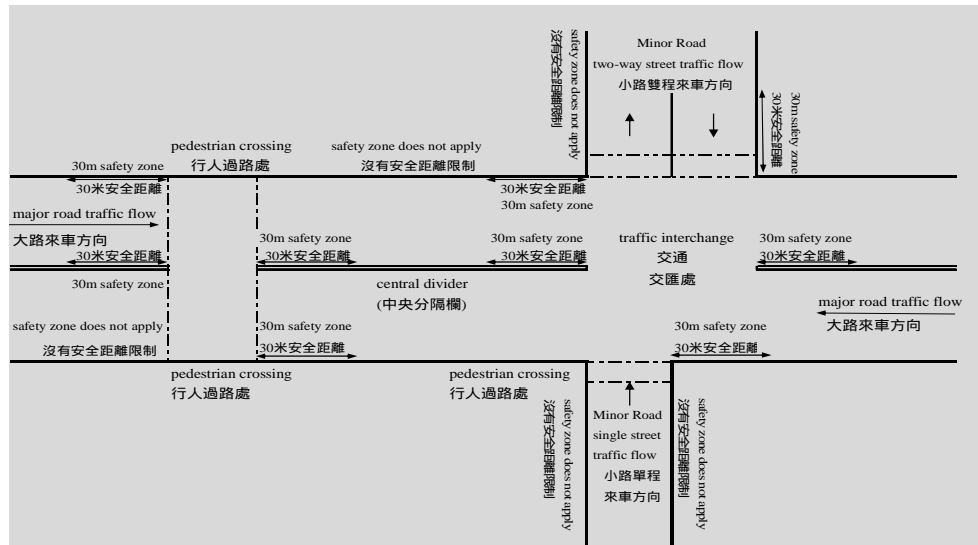
junctions or pedestrian crossings; and

- (d) at the junction of a dual way road and a major road. But designated spots within a one-way street will not be subject to the 30-metre safety restriction if they do not obstruct the views of drivers getting on to a major road.

A plan illustrating the 30-metre safety zone is in Figure II.

圖二. 30 米安全距離示意圖

Figure II. Illustration of 30m Safety Zone



## 7. 宣傳品內容

- (a) 宣傳品只可包括下列內容：
- 關乎公眾利益的節目或非商業的活動；
  - 推廣社區服務；及
  - 立法會/區議會議員及政治團體在選舉期以外向公眾提供他們有興趣或可惠及他們的一般資料。原則上，有關資料不得宣傳任何收費商品及服務或任何形式的收費訓練班和活動。惟由政府部門及非政府機構/慈善團體合辦關乎社會服務的收費或免費活動則不受限制。
- (b) 非牟利公眾活動的宣傳品倘印載給予贊助的商業機構或如公益金一類的非牟利組織的名稱及商標，必須事先得到地政專員批准；贊助機構的名稱及標誌所佔的總面積，不得超過宣傳品面積的十分之一。
- (c) 所有宣傳品的內容均須符合香港特別行政區的法律。任何淫褻或意識不良的宣傳品均不得展示。
- (d) 宣傳品除可展示申請人的名字外，亦可包括其他人的名字。
- (e) 申請獲得批准並不表示香港特別行政區政府及其人員批准宣傳品的內容。

## 8. 申請的處理

- (a) 申請人須填妥申請表並在預定展示期之前最少一個月送達有關地政處。如申請表並未填妥，或遞交申請的時間不足一個月，地政處均不能

## 7. Content of Publicity Materials

- (a) The content of publicity materials should include only :
- events of public interest or non-commercial activities;
  - promotion of community services; and
  - information of general interest and benefit to the public provided by LegCo/DC Members and political bodies outside election periods. In principle, the information must not include the promotion of any commodities or services provided at a fee or any form of fee paying training courses and activities. However, fee paying or non-fee paying social service related events organised jointly by government departments and NGOs/charitable bodies will not be restricted.
- (b) Publicity materials containing names and logos of commercial firms or non-profit making bodies such as the Community Chest sponsoring non-profit making public activities are subject to the prior approval of the District Lands Officer and the total size of the names and logos of the sponsors shall not be larger than one tenth of the area of the publicity material.
- (c) The contents of the publicity materials to be displayed shall be in compliance with the laws of the Hong Kong Special Administrative Region. No publicity materials of an obscene or objectionable nature shall be displayed.
- (d) Publicity materials may contain names of other persons apart from that of the applicant.
- (e) The approval of applications does not imply the Government of the Hong Kong Special Administrative Region or its officers approve the contents of the publicity materials.

## 8. Processing of Applications

- (a) Duly completed applications shall be submitted to the relevant DLO no later than one month before the applicant's intended display period. The DLO cannot guarantee approval of the application by its intended display date if the application

保證可在其申請的展示期前批核有關申請。不過，如情況特殊，具備理據的緊急申請亦會獲得處理。

- (b) 供非政府機構及慈善團體申請的指定展示點，以 5 個散佈於區內各處的展示點為一組分配，以供這個類別的申請者使用。
- (c) 不論批准與否，地政處一律以書面通知申請人有關結果，而不會收取任何費用。
- (d) 當局在選舉期間會暫時停止接受有關申請或臨時取消已批核的申請。

## 9. 宣傳品的展示和管理

- (a) 每件宣傳品的右上角均須以不小於 2.5 厘米 x 2.5 厘米的字體標明其核准編號及核准展示期。宣傳品須在其選擇/獲分配的指定地點上展示，並須以穩固而獨立的方式裝設妥當以致不會於風中搖擺，亦不得阻礙行人或車輛交通。
- (b) 宣傳品的內容須與申請表所述的相同，如得地政專員書面同意，申請人可改動宣傳品的內容。
- (c) 嚴禁以金屬線或釘把宣傳品穩固在任何公路結構、欄杆、分隔牆、圍欄、標杆或任何其他街道設施上。
- (d) 申請人須對宣傳品及其內容承擔一切責任，並須同意就地政專員批准展示宣傳品所引致或因此而引致的一切責任、費用、開支、行動、訴訟、申索及要求，永久負責彌償香港特別行政區政府及/或其任何人員的損失。
- (e) 申請人不得展示任何商業宣傳品。
- (f) 申請人須於核准展示期屆滿後立即拆除宣傳品，否則食物環境衛生署署長會清除及處置該等宣傳品，並對有關申請人採取法律行動和追討拆除宣傳品的費用。
- (g) 食物環境衛生署署長會拆除在指定地點以外展示或任何阻礙公眾通道及其維修或改善工程的宣傳品，並對有關申請人採取法律行動和追討拆除宣傳品的費用。
- (h) 如發現有未經許可或妨礙任何緊急修理工程的宣傳品，當局會予以拆除而不作任何通知。未經許可的宣傳品不會發還予物主；食物環境衛生署署長可對有關物主採取法律行動和追討拆除宣傳品的費用。

is incomplete or is submitted less than one month. However, urgent applications with justifications under special circumstances will also be processed.

- (b) Designated spots for applications by NGOs and charitable bodies will be divided into groups. Each group consists of 5 different designated spots, located in various parts of the district to cater for the needs of such applications.
- (c) All applicants will be notified of the results in writing. No fees will be charged for applications.
- (d) Applications and approvals for display of publicity materials will be temporarily suspended or revoked during election periods.

## 9. Display and Management of Publicity Materials

- (a) Each piece of publicity material to be displayed will be required to bear on its top right hand corner the approval number and the approval period with digits of not smaller than 2.5cm x 2.5cm in size. The materials must be displayed at its chosen/allocated designated spot and shall be firmly and separately fastened so that they will not dangle in the wind or cause obstruction to pedestrians and vehicular traffic.
- (b) The content of publicity materials must be the same as that described in the application form. Subject to the written consent of the District Lands Officer, an applicant may alter the content of his/her publicity materials.
- (c) The use of wire and nail for fixing the publicity materials onto any highway structure, railing, barrier, fence, post or any other street furniture is strictly prohibited.
- (d) The applicant is responsible for the publicity materials and the contents thereof and agrees to indemnify and keep indemnified the Government of the Hong Kong Special Administrative Region and or any of its officers against all liabilities, costs, expenses, actions, proceedings, claims and demands arising out of or in connection with the permission granted by the District Lands Officer for the display of the publicity materials.
- (e) No commercial advertisements shall be permitted.
- (f) Upon expiry of the approved period of display, the publicity materials shall be removed immediately by the applicants. Any publicity materials not so removed will be cleared and disposed of by the Director of Food and Environmental Hygiene (DFEH), who will also take legal action and claim removal expenses against the applicant concerned.
- (g) DFEH will remove publicity materials displayed outside the designated spots or those which obstruct public access and its repair and improvement works. DFEH will take legal action and claim removal expenses against the applicant concerned.
- (h) Publicity materials which are unauthorized or affect emergency repair works shall be removed without notification. Unauthorized publicity materials will not be returned to the owners. DFEH may take legal action and claim removal expenses against owner concerned.

<del>Registered and enrolled nurses</del>
Registered asbestos consultants/contractors/supervisors/laboratories
Registered chiropractors
Registered dentists
Registered electrical workers and registered electrical contractors
Registered examiners and registered contractors for the builders' lift and tower working platform
Registered fire service installation contractors
Registered medical laboratory technologists
Registered medical practitioners
Registered midwives
Registered occupational therapists
Registered optometrists
Registered physiotherapists
Registered radiographers
Registered safety auditor and registered scheme operators (a scheme to train persons to be safety auditors)
Registered social workers
Reproductive technology treatment, storage of gametes or embryos, and embryo research
Securities and futures markets
Security industry
Surveyors
<del>Veterinary surgeons</del>

### Removal of Roadside Publicity Materials During Election Committee Subsector Elections

8. **MR LAU CHIN-SHEK** (in Chinese): *President, to prepare for the Chief Executive election, the Government will hold the Election Committee (EC) subsector elections later on. During the election period, the Lands Department (LandsD) requires all Legislative Council Members and District Council (DC) members to remove at their own expenses their roadside publicity materials (PMs) at the spots approved by the LandsD and put them back after the election. According to past experience, the costs for hiring workers to remove PMs and put them back are about \$40 for each spot. In this connection, will the Government inform this Council:*

- (a) *of the current total number of spots approved by the LandsD for Legislative Council Members and DC members to display their PMs;*
- (b) *whether it has calculated the costs to be borne by Legislative Council Members/DC members for removing and putting back all of their PMs; if it has, of the costs;*
- (c) *whether it will consider putting up the PMs of the EC subsector elections on top of the PMs of Legislative Council Members/DC members which are on display at present, instead of requiring them to remove all of their existing PMs; if not, of the reasons for that;*
- (d) *whether it will consider requiring Legislative Council Members/DC members to remove their PMs only at those spots which are needed for the EC subsector elections and allowing them to keep their PMs at other spots; if not, of the reasons for that;*
- (e) *of the number of those spots for which approval had been granted but were also revoked temporarily during last year's Chief Executive by-election, and the respective numbers of the spots which were used and those which were not used for displaying the PMs of the Chief Executive by-election; and*
- (f) *whether approval for designated spots will again be revoked temporarily during the Chief Executive election to be held in March next year; if so, of the details of the arrangements?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Chinese): President, the LandsD introduced a Management Scheme in 2003 to better manage the display of roadside non-commercial PMs by Legislative Council Members and DC members, government departments and non-profit-making organizations. Under the Management Scheme, the LandsD is responsible for approving applications and allocating designated spots to individual parties for the display of PMs. According to the Implementation Guidelines of the Management Scheme, applications and approvals for the use of the designated spots will be temporarily suspended or revoked during election periods.



During election periods, spots on public land for candidates to display their election advertisements (EAs) are designated by Returning Officers (ROs).

The Administration's response to the respective parts of the question is as follows:

- (a) According to the LandsD, the Department has approved about 13 100 spots for Legislative Council Members and DC members to display their PMs. These approvals were temporarily revoked as from 23 October 2006 to cater for the display of EAs by candidates for the EC subsector elections, which will be held on 10 December 2006.
- (b) The LandsD does not have any information on the costs to be borne by Legislative Council Members and DC members for removing and putting back their PMs.
- (c) The proposal of putting up EAs on top of the PMs originally on display at the designated spots (so that the latter need not be removed during election periods) may give rise to some difficult legal and practical issues which would need to be carefully addressed. Such issues include :
  - (i) possible confusion to voters if the EAs are not large enough to cover fully the original PMs;
  - (ii) possible damage to the original PMs when the EAs are put on top of them (and the resultant issue of responsibility arising therefrom); and
  - (iii) the issue of responsibility in case the original PMs and the EAs cause any danger or inconvenience to passers-by.
- (d) Existing PMs put up on designated spots under the Management Scheme will have to be removed, if the designated spots are designated by ROs for the display of EAs. The removal should be effected before the start of the nomination period. As regards the other designated spots (if there remains any), the PMs may continue to remain on display.

- (e) During the Chief Executive by-election in 2005, the RO designated about 950 designated spots in various locations in Hong Kong for the display of EAs. According to the information available to the Registration and Electoral Office, no EA was displayed on these designated spots on that occasion.
- (f) For the coming Chief Executive election to be held in 2007, it is envisaged that the RO may designate a similar number of designated spots for the display of EAs. Any PMs which are originally on display at these spots will need to be removed by a date to be specified.

~~Communication Channels Between Members Returned by Legislative Council Functional Constituencies and Their Electors~~

9. **MISS TAM HEUNG-MAN** (in Chinese): *President, regarding the communication channels between Members returned by Legislative Council functional constituencies (FCs) and their electors, will the Government inform this Council:*

- (a) *as a subsidiary legislation of the Electoral Affairs Commission Ordinance stipulates that no person is allowed to use any information relating to a person contained in a register or an extract from such a register for any purpose unrelated to an election, whether it will consider amending the subsidiary legislation concerned to allow Legislative Council FC Members to use such information while they are in office for communication with their electors (such as sending newsletters on their work in the legislature);*
- (b) *given that there is a professional body which refuses to send, on behalf of a Legislative Council Member returned by the FC to which the body belongs, newsletters to its members for the reason that such an act, without the prescribed consent of the data subject to use his personal data for this purpose, might contravene a data protection principle under the Personal Data (Privacy) Ordinance (the Ordinance), whether it knows if the Privacy Commissioner for Personal Data will issue guidelines or formulate other measures to*