

立法會
Legislative Council

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the Administration)

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Bills Committee on Personal Data (Privacy)(Amendment) Bill 2011

Minutes of the second meeting
held on Saturday, 26 November 2011, at 2:00 pm
in Conference Room 1 of the Legislative Council Complex

Members present : Dr Hon Philip WONG Yu-hong, GBS (Chairman)
Hon Paul TSE Wai-chun, JP (Deputy Chairman)
Hon James TO Kun-sun
Hon TAM Yiu-chung, GBS, JP
Hon WONG Kwok-hing, MH
Hon Cyd HO Sau-lan
Hon CHAN Kin-por, JP
Dr Hon Priscilla LEUNG Mei-fun, JP
Hon IP Kwok-him, GBS, JP
Hon Alan LEONG Kah-kit, SC

Members absent : Hon Emily LAU Wai-hing, JP
Hon Vincent FANG Kang, SBS, JP
Hon WONG Ting-kwong, BBS, JP
Hon Ronny TONG Ka-wah, SC
Dr Hon Samson TAM Wai-ho, JP

Public Officers attending : Item I

Constitutional and Mainland Affairs Bureau

Miss Adeline WONG
Under Secretary for Constitutional and Mainland Affairs

Mr Arthur HO
Deputy Secretary for Constitutional and Mainland Affairs

Mrs Philomena LEUNG
Principal Assistant Secretary for Constitutional and
Mainland Affairs

Department of Justice

Ms Mabel CHEUNG
Senior Government Counsel

Deputations attending : Hong Kong Human Rights Monitor

Mr LAW Yuk-kai
Director

Hong Kong Direct Marketing Association

Mr Eugene Raitt
Chairman

The Hong Kong Federation of Insurers

Mr Harry WONG
Chairman of Task Force on Review of the Personal
Data (Privacy) Ordinance

Office of the Privacy Commissioner for Personal Data

Mr Allan CHIANG
Privacy Commissioner for Personal Data

Ms Brenda KWOK
Acting Deputy Privacy Commissioner for Personal
Data

Ms Sandra Liu
Acting Chief Legal Counsel

Hong Kong Association of Banks

Mr Clement HO Ka-chuen
Chairman of Personal Data (Privacy) Ordinance
Working Group

Mr CHAN Chung-yau

Hong Kong Call Centre Association

Mr Michael Cowell
Treasurer

Clerk in attendance : Mr Thomas WONG
Chief Council Secretary (2) 2

Staff in attendance : Mr Arthur CHEUNG
Senior Assistant Legal Adviser 2

Ms Catherina YU
Senior Council Secretary (2)6

Miss Emma CHEUNG
Legislative Assistant (2)2

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I. Meeting with deputations and the Administration

Members received views from deputations. A summary of their views is at **Annex I**.

2. The Bills Committee deliberated (index of proceedings at **Annex II**)

Direct Marketing, Sale of Personal Data and “30-day response period”

3. Members raised concern about the Administration's proposed “30-day response period”, under which a data user who intended to use the personal data of a data subject, or provide such data to other persons for use, in direct marketing or sell such data had to provide, before the use or sale, the data subject with (a) certain written information about the data

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subject's personal data ("written notification"), and (b) a response facility through which the data subject might indicate in writing to the data user whether the data subject objected to the intended use or sale, and the data subject would be taken not to object if no reply indicating objection was sent to the data user within 30 days.

4. Mr WONG Kwok-hing shared the Privacy Commissioner for Personal Data ("PCPD")'s view that the Administration's proposed opt-out regime for the sale of personal data was tantamount to legalizing the sale of personal data by data users that they were not permitted to do so under the Personal Data (Privacy) Ordinance (Cap. 486) ("PDPO"), which required data users to obtain the consent of data subjects before the data could be sold.

5. Mr CHAN Kin-por expressed disagreement with PCPD's view in paragraph 4. He pointed out that under the existing PDPO, if the sale was not the purpose for which the data was to be used, or a directly related purpose, at the time of data collection, the sale of personal data would not be an offence if express and voluntary consent was obtained from data subjects. The Chairman of the Task Force on Review of the Personal Data (Privacy) Ordinance of the Hong Kong Federation of Insurers ("HKFI") shared Mr CHAN's view.

6. Mr TAM Yiu-chung asked the Administration to consider adopting a more stringent approach, i.e. an opt-in regime, for the sale of personal data, as data subjects might not wish their data to be sold by data users or a third party for monetary gains. Mr TAM and Dr Priscilla LEUNG called on the Administration to explain why different regimes could not be applied to the use of personal data in direct marketing and sale of personal data respectively, i.e. opt-out for the former and opt-in for the latter.

7. Dr Priscilla LEUNG considered that the Administration should not apply an opt-out regime across the board. An opt-out regime might be applied to cases where the data users intended to use the personal data of data subjects for marketing products or services directly related to the original purpose(s) of data collection. On the other hand, an opt-in regime might be applied to cases where the data users intended to use the personal data for marketing products or services unrelated to the original purpose(s) of data collection.

8. PCPD pointed out that there was currently no common international standard for the regulation of the sale of personal data. A widely agreed principle was that the sale of personal data should not fall outside the

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reasonable expectation of data subjects and should be consistent with or directly related to the original purposes of data collection unless with the explicit and voluntary opt-in consent of data subjects. Director of the Hong Kong Human Rights Monitor shared a similar view.

9. Mr Alan LEONG opined that at least an opt-in regime had to be applied to the sale of personal data. As pointed out by the Consumer Council, to allow data subjects to opt in was the best way to ascertain their consent to the sale of their personal data.

10. Mr WONG Kwok-hing considered it unreasonable to assume that if data subjects did not indicate objection in writing within 30 days to the intended use of their personal data in direct marketing or sale of their personal data by data users, the data subjects would be taken not to object. He said that he would move an amendment to the Bill proposing the removal of this arrangement if the Administration would not do so.

11. Mr CHAN Kin-por opined that Hong Kong should adopt an opt-out regime for both use of personal data in direct marketing and sale of personal data, as most overseas jurisdictions did. If an opt-in regime would be adopted in future, it should be implemented incrementally rather than in one go.

12. The Chairman of the Hong Kong Direct Marketing Association ("HKDMA") raised objection to the use of the expression "sale of personal data" in the Bill, as the data had never been sold or involved any transfer of ownership but had been licensed for temporary sharing. He expressed worry that should an opt-in regime be adopted, few customers would spend time exercising their opt-in right and the direct marketing business would fail, causing considerable job losses. As evidenced by research studies, the opt-in regime was the worst possible choice for consumers and the society.

13. PCPD considered that while an opt-in regime was not currently widely applied to the use of personal data for direct marketing purposes in overseas jurisdictions, it should be adopted in Hong Kong as an ultimate goal to better protect personal data privacy and respect customers' self-determination right. Nevertheless, as it would take time for the consumer market to adjust to an opt-in regime, PCPD accepted that the Administration might put in place an improved opt-out regime with a central "Do-not-call" register for person to person telemarketing calls ("P2P calls") as an interim measure before the full roll-out of an opt-in regime.

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14. Mr Alan LEONG expressed support for PCPD's view. He was worried that under an opt-out regime, a data user might sell the personal data of a data subject to any transferee(s) which might further transfer the data to other parties and render the data transfer unstoppable unless the data subject had exercised his opt-out right.

15. The Chairman of HKDMA advised that the common international privacy standard for the use and transfer of personal data for direct marketing purposes was the opt-out regime under which the data user, at the time of data collection, made full disclosure to the data subjects of its intended use or transfer of the personal data, including sharing such data from time to time with certain marketing partners to market selected categories of services or products unrelated to the original purpose(s) of data collection. Customers had been given, through mails, emails or text messages, multiple, frequent and continuous opportunities to opt out from any or all such services or products. The problem of P2P calls would still exist regardless of any changes to PDPO as there were always bad actors, which were difficult to regulate. HKDMA had been monitoring its members effectively, as evidenced by the low number of complaints received, and would continue to do so. The industry would also endeavor to educate the public about their rights and obligations in the transfer of personal data.

16. The Chairman of the Personal Data (Privacy) Ordinance Working Group of the Hong Kong Association of Banks advised that the banking industry had adopted a responsible and transparent approach to the use and transfer of personal data. It had clearly explained to customers in the Personal Information Collection Statement ("PICS") the kinds of personal data to be collected and used, subject to their agreement. Following the incident of mishandling customer personal data by the Octopus group of companies in 2010 ("the Octopus incident"), the Hong Kong Monetary Authority had issued a number of circulars requesting banks to comply with PDPO and cease transferring personal data for direct marketing purposes without the data subjects' consent. The industry favoured an opt-out regime, as it was operationally simpler than an opt-in one and customers might not be willing to spend time going through the opt-in procedures.

17. Mr James TO opined that should a data user transfer the personal data of a data subject to a third party, the third party had to inform, at the time of making a P2P call, the data subject of its identity and how it had obtained the personal data. Whether withholding such information should be criminalized was an issue to be explored. The Chairman of HKDMA

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advised that members of HKDMA were in favor of disclosing to called parties the source from which they had obtained the personal data. The Treasurer of the Hong Kong Call Centre Association, on the other hand, explained the difficulties encountered by telemarketing staff if they would be required to provide to data subjects information about the source of their personal data.

18. In response to the views of members and depositions about the Administration's proposed opt-out regime for the use of personal data in direct marketing and sale of personal data, Under Secretary for Constitutional and Mainland Affairs ("USCMA") advised that –

- (a) the proposed regulatory requirements for the use of personal data in direct marketing and sale of personal data under the Bill were clearer and more stringent than the existing ones under PDPO and would enhance the transparency of the whole regulatory regime and afford more protection to data subjects;
- (b) the proposed opt-out regime was not a retrograde step in comparison with the existing regulatory regime for the use of personal data in direct marketing and sale of personal data. Under PDPO, data users had to inform data subjects of the purpose for which their personal data was to be used and the classes of persons to which such data might be transferred. Nevertheless, as indicated by the Octopus incident, some data users engaged in direct marketing had not followed PDPO fully. For instance, they had not clearly notified data subjects of the intended use of their personal data in direct marketing or sale of their personal data. They had also required data subjects to give "bundled consent" to the terms and conditions of goods/services contracts and the use of their data for direct marketing purposes. To address public concerns, the Administration proposed to require data users to give clear written notification to data subjects about the intended use of their personal data in direct marketing or sale of their personal data and that the written notification had to be presented in a manner that was easily readable and easily understandable. Data users would also be required to provide data subjects with a response facility to indicate whether they would object to the intended use or sale;
- (c) at present, a contravention of the data protection principles under PDPO was not a criminal act. It was only upon the breach of an enforcement notice issued by PCPD after the completion of an investigation that the data user concerned was liable to criminal sanction. Under the Administration's proposal, sale of personal data or

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use of personal data in direct marketing without complying with the new requirements would be a criminal offence. A data user engaging in unauthorized use of personal data in direct marketing would be liable on conviction to a fine of \$500,000 and imprisonment for three years. A data user engaging in unauthorized sale of personal data would be liable on conviction to a fine of \$1,000,000 and imprisonment for five years. The criminalization of unauthorized sale of personal data was not common in overseas jurisdictions;

(d) the Administration noted that following the Octopus incident, the Octopus Rewards Limited ("ORL") had revised the Octopus Rewards Registration Form ("ORRF") in accordance with the existing PDPO. Nevertheless, should the Administration's proposed regulatory requirements be adopted, the ORRF would need to be further revised. For instance, the existing ORRF only asked customers whether they would opt out from receiving promotional information and regular member communications from ORL through various channels (viz. email, SMS, direct mail and phone) but not from the use of their personal data for direct marketing purposes. Under the Administration's proposed regulatory requirements, ORL would need to provide its customers with, among others, an opportunity to opt out from the use of their personal data for direct marketing purposes and more specific written information on the kinds of personal data to be used, the classes of persons to which the data was to be provided and the classes of goods, facilities or services to be offered or advertised; and

(e) the proposed opt-out regime was to strike a balance between the protection of personal data privacy and allowing room for businesses to operate while providing data subjects with an informed choice as to whether to allow the use of their personal data in direct marketing. The proposal to adopt the same regime, i.e. opt-out, for both use of personal data in direct marketing and sale of personal data was to ensure consistency and avoid confusion to data users and data subjects, as the sale of personal data was also mainly for direct marketing purposes. Moreover, past surveys conducted by the Office of the Telecommunications Authority showed that about half of the P2P calls did not involve the recipients' personal data.

19. PCPD considered that the Administration's proposed opt-out regime for both use and sale of personal data was for administrative convenience only, and this was not a sufficient ground to override privacy and data protection requirements. The sale of personal data by data users might

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exceed data subjects' reasonable expectation and therefore had to be subject to an opt-in regime.

20. On the 30-day response period, the Chairman of HKDMA advised that in the real world of the call business, all data users had made full disclosure of their intended use of the personal data to the data subjects and informed them of their right to opt out at the time of data collection. In his understanding, no companies in the industry first collected the data, and only informed data subjects of the intended use of their personal data in direct marketing subsequently. The industry had made recommendations to improve the layout and presentation of PICS and make its language easily understandable, and these recommendations had been incorporated into the existing self-regulatory regime for which the industry had expressed support.

21. PCPD considered that the proposed 30-day response period was a new arrangement and lagged behind the current international privacy standards, which required a data user to inform the data subject, on or before data collection, of the purpose of use of the personal data and the classes of persons to whom the data might be transferred. The Administration should withdraw the proposed 30-day response period, which might give rise to uncertainty not beneficial to data subjects and was not demanded by the industry.

22. PCPD also considered that HKFI's suggestion to issue guidance to prevent data users from taking advantage of the proposed 30-day response period was not desirable, as it did not have legislative effect.

23. USCMA advised that the proposed 30-day response period did not feature in the legislation of the overseas jurisdictions studied by the Administration as they did not have specific requirements similar to those proposed in the Bill governing the sale of personal data and use of personal data in direct marketing. The proposed requirements were much stricter than those in overseas jurisdictions. The proposed 30-day response period was intended to cater for situations where data users did not have any plan to use the personal data of data subjects in direct marketing at the time of data collection but only had such a plan after the data collection.

24. Mr WONG Kwok-hing asked how to ensure data subjects to receive written notification from data users and be aware of the importance of sending a written reply to data users if they preferred to opt out under the proposed 30-day response period. He opined that a simpler and more

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straightforward way was to let data subjects decide whether to authorize the use or sale of their personal data at the time of data collection.

25. USCMA advised that in most cases, data users had an established relationship with data subjects and therefore should have the most updated contact methods to reach their data subjects. Data subjects could also contact data users by fax, email and so on. It was up to data subjects to decide whether to respond to the written notification from data users. PCPD expressed worry that the proposed 30-day response period might give rise to uncertainty and disputes, as data users might not have a sustainable relationship with their data subjects or the most updated contact methods to reach them. Consequently, data subjects might miss the written notification from data users.

26. Mr CHAN Kin-por said that according to his understanding, the direct marketing industry had been operating with integrity and data users and transferees would not make P2P calls to data subjects who had opted out. He shared the view that the proposed 30-day response period was unnecessary and might give an impression that data users would take advantage of it to serve their interests. He suggested that the Administration might consider withdrawing the proposal.

Grandfathering

27. Mr CHAN Kin-por suggested that before the implementation of the new regulatory requirements for the use of personal data in direct marketing and sale of personal data under the Bill, a one-off exercise should be conducted to grandfather the personal data that had been collected by data users and transferees and let data subjects opt out if they chose to.

28. Ms Cyd HO expressed support for Mr CHAN's suggestion and added that the Administration should request data users to help trace the transferees to whom the personal data of data subjects had been transferred, and to ensure that data subjects who had opted out from receiving promotional and marketing information on services or products unrelated to the original purpose(s) of data collection would continue to receive the service for which the data subject had provided his personal data.

29. USCMA advised that for services subject to regulation such as provision of banking or utility services, data users could not cease to provide such services on the ground that data subjects had opted out from

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receiving promotional and marketing information on services or products unrelated to the original purpose(s) of data collection.

Compliance with regulatory requirements

30. In response to HKDMA's view that the Office of the Privacy Commissioner for Personal Data, Hong Kong ("OPCPD") had only received a small number of privacy-related complaints, PCPD advised that this did not mean that the intrusion into personal data privacy was not serious in Hong Kong, as the single Octopus incident had involved more than two million people. The number of complaints received by OPCPD about direct marketing had more than doubled from 127 in 2009-2010 to 263 in 2010-2011. PCPD believed that this might only be the tip of the iceberg. For one complaint, there had to be many other cases in which the data subjects tolerated the misuse of their personal data as they did not have time to lodge formal complaints, and probably even more cases in which the data subjects were not even aware that their privacy rights had been violated.

31. PCPD noted that members of the Hong Kong Call Centre Association had achieved a 100% pass rate in the first round of audits conducted by the Hong Kong Quality Assurance Agency in October and November 2011 concerning the compliance with the code of practice for the telemarketing industry. Nevertheless, PCPD pointed out that the code of practice was applicable to the telemarketing industry only and inferior to the Bill in terms of regulatory scope and complexity.

32. The Chairman of HKDMA stressed that HKDMA had taken every single complaint seriously, as the reputation of the company involved was at stake. Almost all complaints received about privacy-related matters had been handled amicably between companies and customers.

Corporate mergers

33. In response to Dr Priscilla LEUNG's concern about the regulation of the use and transfer of personal data in corporate mergers, Acting Deputy Privacy Commissioner for Personal Data advised that as corporate mergers were common commercial activities, the Bill proposed to exempt from Data Protection Principle 3 the transfer or disclosure of personal data for use in due diligence exercises in connection with mergers provided that (a) the personal data to be transferred were necessary; (b) the data transferee would provide the same products or services to the data subjects as did the original data user; (c) the consent of the data subjects to the data

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transfer could not be obtained despite the taking of all reasonably practicable steps; and (d) the data transfer did not include sale of the data.

34. Summing up, the Chairman called on the Administration to make appropriate amendments to the Bill and ensure that such amendments would not give rise to further problems, having regard to the views and suggestions of deputations and members.

II. Any other business

35. The Chairman advised that the next meeting was scheduled for 7 December 2011 at 8:30 am.

36. There being no other business, the meeting ended at 4:30 pm.

Council Business Division 2
Legislative Council Secretariat
30 March 2012

**Summary of views raised by depositions at the second meeting of the Bills Committee
on Personal Data (Privacy) (Amendment) Bill 2011 on 26 November 2011**

Deputation	Summary of views
Opt-in regime	
Privacy Commissioner for Personal Data ("PCPD") Hong Kong Human Rights Monitor ("HKHRM") Hong Kong Direct Marketing Association ("HKDMA")	<p>PCPD and HKHRM considered that to afford adequate protection to the personal data privacy of data subjects, an opt-in regime had to be applied to the sale of personal data.</p> <p>HKDMA pointed out that scientific researches concluded that an opt-out regime provided greater flexibility and was the best for consumers and the society while an opt-in regime would kill the direct marketing industry.</p>
Opt-out regime	
HKDMA Hong Kong Federation of Insurers ("HKFI") Hong Kong Call Centre Association ("HKCCA")	<p>HKFI supported the Administration's proposed opt-out regime for the collection and use of personal data in direct marketing and sale of personal data, as it would strike a balance between safeguarding the personal data privacy of the public and facilitating business operations. Amendments to the Personal Data (Privacy) Ordinance (Cap. 486) ("PDPO") should protect consumers but not stifle normal marketing activities and direct marketing businesses essential to the healthy development of the service industry.</p>

HKCCA supported the continuation of the opt-out regime under the existing PDPO. The Administration's proposed amendments to the existing opt-out regime had struck a balance between the needs of consumers and the small and medium-sized and large businesses in Hong Kong.

HKHRM considered that the proposed opt-out regime was a compromise with the direct marketing industry and had sacrificed the right of members of the public to protect their personal data privacy, as it could not enable data users to ascertain the preference of data subjects over the use of their personal data for direct marketing purposes.

PCPD considered that there were crucial flaws in the proposed opt-out regime. In particular, the proposed 30-day response period would legitimize data users to delay informing data subjects until any time after data collection that the data were to be used for direct marketing purposes. With this delayed approach, data users' notification could take place at any un-predetermined time after data collection. As such, data users were likely to make more use of delayed notification rather than notification on or before data collection. In addition, it would be incumbent upon data subjects to make specific opt-out requests in response to the notification from data users.

PCPD also considered that the proposed opt-out regime for the sale of personal data would legalize the sale of such data by data users that they were not otherwise permitted to engage in under the current PDPO, which provided that unless a data user received a positive indication from a data subject, the data user could not sell the personal data of the data subject. The proposed opt-out regime fell short of the strong public expectation revealed in the 2010 Octopus incident and represented a

	<p>retrograde step in tightening up control over the unauthorized sale of personal data by data users.</p> <p>HKFI expressed disagreement with PCPD's view on the proposed 30-day response period, as it was only PCPD's assumption that the delayed notification by data users would happen. In HKFI's view, PCPD could ensure that this would not happen by making provisions in its guidelines on personal data privacy.</p>
<p>Compliance with existing PDPO</p>	
<p>HKDMA</p>	<p>Direct marketing companies had all along attached importance to their reputation and protection of personal data privacy of their customers. Each member company under HKDMA had a compliance department headed by a chief compliance officer, often an attorney specializing in compliance-related matters. Some companies retained external compliance experts to monitor and manage their compliance programs. All these compliance departments had taken an aggressively conservative stance on interpreting PDPO. The current PDPO was working very well. Complaints from the public on privacy-related matters were a tiny fraction of the total number of transactions taken each year, and 99% of all complaints had been handled in a timely and amicable manner between the companies concerned and their consumers. That left an even smaller number of complaints that reached the Office of Privacy Commissioner for Personal Data ("OPCPD") and of those a very small number actually resulted in an enforcement action. At the company level, complaints (of all kinds, not just privacy) as a percentage of transactions were rarely above 2% and normally below 1% of all transactions, and most complaints were not related to privacy. At the level of the OPCPD, the total number of complaints as a percentage of the total industry transactions barely registered and was very far below 1%.</p>

	<p>Prior to the 2010 Octopus incident, HKCCA and HKDMA had worked with the Office of the Telecommunications Authority to implement a code of practice for the operation of direct marketing calls. The code of practice provided for an independent compliance audit by the Hong Kong Quality Assurance Agency. Within the first round of audits conducted in October and November 2011, there had been a 100% pass rate. Members of HKCCA had a long history of respecting the rights of consumers.</p>
<p>Powers of PCPD</p>	
<p>HKFI</p>	<p>HKFI supported the Administration's view that the existing regulatory regime under which the powers to conduct criminal investigation, prosecute and give ruling on criminal cases vested with the Police, the Department of Justice and the Judiciary respectively had been functioning well, and should not be changed by granting criminal investigation and prosecution powers to PCPD.</p> <p>HKHRM considered that as a human rights protection agency, PCPD should be granted sufficient power to perform its functions.</p>
<p>Consumer education</p>	
<p>HKDMA HKCCA</p>	<p>HKDMA considered that bad actors which did not comply with PDPO would always be operating regardless of any changes to PDPO, but they represented less than 1% of the direct marketing industry. It would not make any sense to severely punish and put out of business of most law-abiding, ethical, and vigilant companies because of the actions of the less than 1% which would continue in any event. The Government and PCPD should focus on consumer education and consumer responsibility in</p>

	<p>learning about their rights and obligations.</p> <p>HKCCA called on the Government to consider greater funding for the education of consumer rights and obligations.</p>
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Council Business Division 2
Legislative Council Secretariat
30 March 2012

**Proceedings of the second meeting of the
Bills Committee on Personal Data (Privacy)(Amendment) Bill 2011
on Saturday, 26 November 2011, at 2:00 pm
in Conference Room 1 of the Legislative Council Complex**

Time marker	Speaker	Subject	Action required
000830-000955	Chairman	Opening remark	
000956-001533	Hong Kong Human Rights Monitor ("HKHRM")	Written submission [LC Paper No. CB(2)425/11-12(01)]	
001534-002104	Hong Kong Direct Marketing Association ("HKDMA")	Written submission [LC Paper No. CB(2)371/11-12(02)]	
002105-002438	Hong Kong Federation of Insurers ("HKFI")	Written submission [LC Paper No. CB(2)371/11-12(03)]	
002439-003041	Privacy Commissioner for Personal Data ("PCPD")	Written submission [LC Paper No. CB(2)263/11-12(03)]	
003042-003630	Hong Kong Association of Banks ("HKAB")	Written submission [LC Paper No. CB(2)371/11-12(05)]	
003631-003702	Mr CHAN Chung-yau	Mr CHAN Chung-yau's request for the Administration to review the policies relating to the collection and use of personal data.	
003703-004114	Hong Kong Call Centre Association ("HKCCA")	Written submission [LC Paper No. CB(2)371/11-12(04)]	
004115-004639	Chairman Mr WONG Kwok-hing	Mr WONG Kwok-hing's concern about the problems arising from the Administration's proposed 30-day response period and his request for the Administration to amend the proposal.	Admin
004640-004843	Chairman Mr TAM Yiu-chung	Mr TAM Yiu-chung's suggestion for the Administration to consider adopting opt-in and opt-out regimes for the sale and use of personal data respectively.	Admin
004844-004926	Chairman Ms Cyd HO	Ms Cyd HO's support for an opt-in regime for the sale and use of personal data.	
004927-005248	Chairman Dr Priscilla LEUNG	Dr Priscilla LEUNG's suggestion to allow flexibility for the adoption of opt-in and opt-out regimes for the use of personal data in direct marketing under different circumstances.	

		Dr LEUNG's view on the regulation of the transfer of personal data in corporate mergers.	
005249-005514	Chairman Mr Alan LEONG	Mr Alan LEONG's concern about the control over the transfer of personal data of data subjects.	
005515-005739	Chairman Mr James TO	Mr James TO's request for deputations' views on the feasibility of adopting an opt-in regime for the use of personal data in direct marketing and the provision of information on data transferees to data subjects.	
005740-010250	Chairman Mr CHAN Kin-por	Mr CHAN Kin-por's view on the adverse impact of an opt-in regime on the direct marketing trade. His disagreement to PCPD's view that an opt-out regime for the sale of personal data in direct marketing was tantamount to legalizing the sale of personal data by data users. Mr CHAN Kin-por's view on the possible confusion arising from the adoption of opt-in and opt-out regimes for the sale of personal data and use of personal data in direct marketing respectively. An opt-in regime might be considered in future and if adopted, it should be implemented incrementally rather than in one go.	
010251-011256	Chairman PCPD Acting Deputy PCPD	Further views of PCPD as detailed in its submission [LC Paper No. CB(2)500/11-12(02)] provided after the meeting. Acting Deputy PCPD's view on the transfer of personal data in corporate mergers.	
011257-012225	Chairman HKDMA	Further views of HKDMA on opt-in and opt-out regimes.	
012226-013122	Chairman HKFI Mr James TO	Further views of HKFI on opt-in and opt-out regimes. Mr James TO's enquiry on the direct marketing trade's concern about an opt-in regime.	
013123-013636	Chairman HKHRM	Further views of HKHRM on opt-in and opt-out regimes.	
013637-013907	Chairman HKCCA	Further views of HKCCA on opt-in and opt-out regimes.	
013908-014405	PCPD Chairman	PCPD's response to issues raised by some deputations.	
014406-014733	HKDMA	HKDMA's disagreement to PCPD's remarks on the international standard for sharing of personal data for direct marketing purposes and its response to issues raised by some deputations and members.	

014734-020012	Chairman Admin	The Administration's response to the concerns raised by members and deputations and its elaboration on the proposed regulatory requirements.	
020013-020138	Chairman HKCCA	HKCCA's explanation on the difficulties encountered by telemarketing staff in providing the information required by data subjects about the source of the personal data.	
020139-021030	Chairman Mr WONG Kwok-hing Admin PCPD	The Administration's response to Mr WONG Kwok-hing's enquiry on how the Administration would ensure that under its proposed 30-day response period, data users' written notification would reach data subjects and data subjects would exercise their opt-out rights. PCPD's reiteration of his concern about the proposed 30-day response period and his support for an opt-in regime for the sale of personal data.	
021031-021328	Chairman Mr CHAN kin-por	Mr CHAN Kin-por's view that the proposed 30-day response period was unnecessary and his suggestion for the Administration to withdraw the proposal. Mr Chan's suggestion for the Administration to conduct a one-off grandfathering exercise for the personal data collected prior to the enactment of the Personal Data (Privacy) (Amendment) Ordinance 2011.	Admin
021329-022015	Chairman Ms Cyd HO Admin	The Administration's response to Ms Cyd HO's enquiry on the arrangements for data subjects to change their previous decisions on the use of their personal data and her support for the grandfathering exercise proposed by Mr CHAN Kin-por. Ms HO's suggestion to devise a mechanism to request data users to provide information on each and every transferee of data subjects' personal data upon data subjects' requests. The Administration's response to Ms HO's concern about the impact on the services provided by data users to consumers who had made an opt-out request.	Admin
022016-022545	Chairman Mr Alan LEONG Admin	The Administration's response to Mr Alan LEONG's enquiry on the Administration's rationale of proposing an opt-out regime for both use of personal data in direct marketing and sale of personal data.	
022546-022739	Chairman	The Chairman's request for the Administration to make appropriate amendments to the Personal Data (Privacy) (Amendment)	

		Bill 2011 having regard to the views and suggestions of deputations and members. Closing remarks Date of next meeting	
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Council Business Division 2
Legislative Council Secretariat
30 March 2012