

**Nature of Contravention Cases (2010-2011)
Under the Personal Data (Privacy) Ordinance**

Background

1. This paper aims to respond to Hon Ip Kwok-him's question raised in the meeting of the Legislative Council Panel on Constitutional Affairs on 16 May 2011 on the nature of contravention cases concluded by the Office of the Privacy Commissioner for Personal Data ("PCPD") under the Personal Data (Privacy) Ordinance ("the Ordinance") in 2010-11.

Types of Data Users

2. Of the formal investigations PCPD completed in 2010-11, 28 cases were found in contravention of the requirements under the Ordinance. 21 cases involved private sector organizations, 6 cases involved public sector organizations (i.e. government departments and other public bodies), and the remaining 1 case involved individual.

Nature of Contraventions

3. The 28 cases in question involved a total of 38 contraventions (as one complaint case might contain more than one alleged contravention, the number of contraventions was greater than the number of cases), including:
 - (a) 1 contravention about "direct marketing" (i.e. data user continued to use the complainant's personal data in direct marketing despite the complainant's opt-out request);
 - (b) 6 contraventions about non-compliance with "Data Access Request"; and
 - (c) 31 contraventions about violation of Data Protection Principles ("DPPs").
4. Details of the contraventions are attached as Annex.

*Office of the Privacy Commissioner for Personal Data
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Nature of Contraventions (2010-2011)

	Contravention	Public Sector Organization	Private Sector Organization	Individual	Total
1	Use of complainant's personal data in direct marketing despite opt-out request ¹	0	1	0	1
2	Non-compliance with data access request ²	1	5	0	6
3	Excessive collection of personal data ³	2	3	0	5
4	Unfair collection of personal data ⁴	1	1	1	3
5	Failure to provide effective Personal Information Collection Statement to complainant ⁵	2	6	0	8
6	Failure to ensure personal data accuracy ⁶	0	2	0	2
7	Excessive retention period of personal data ⁷	0	1	0	1
8	Change in purpose of use of personal data without complainant's consent ⁸	3	7	0	10
9	Inadequate data security ⁹	1	1	0	2
	Total	10	27	1	38

¹ Contravention of section 34 of the Ordinance

² Contravention of section 19(1) of the Ordinance

³ Contravention of DPP1(1)

⁴ Contravention of DPP1(2)

⁵ Contravention of DPP1(3)

⁶ Contravention of DPP2(1)

⁷ Contravention of DPP2(2)

⁸ Contravention of DPP3

⁹ Contravention of DPP4