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# 立法會秘書處

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## Legislative Council Secretariat

### 新聞稿 Press Release

LegCo to debate a motion on improving personal data privacy protection

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The following is issued on behalf of LegCo Secretariat:

The Legislative Council will hold a meeting this Wednesday (October 20) at 11 am in the Chamber of the Legislative Council Building. During the meeting, Members will debate a motion on improving personal data privacy protection.

The motion, to be moved by Hon WONG Kwok-hing, states: "That, in recent months, 'Octopus' and 'Autotoll' operated by public transport operators, the finance and insurance sector, and the electronic communications sector, etc., were found to have contravened the Personal Data (Privacy) Ordinance ('PDPO') and engaged in unauthorized transfer or sale of the personal data collected to make profits, with extensive implication and significant impact, affecting the personal data privacy right of millions of Hong Kong people; among the above, 'Octopus', the monopoly operator of electronic money, even admitted that it had made a profit of over \$44 million by selling its clients' personal data; the 'Octopus' scandal has revealed that various smart cards currently available in the market, such as bonus cards, membership cards, credit cards, stored value cards and top-up cards, etc., are generally not in full compliance with the requirements of the PDPO, the public's personal data privacy are not properly protected and organizations are able to take advantage of the loopholes and grey areas of the PDPO to indiscriminately collect personal data beyond the scope of

purpose for data collection publicly claimed by such organizations, and turn such data into their cash cows, and in the absence of monitoring, the situation has become very serious, causing considerable disturbance to people's daily life; however, due to the limited powers conferred by the law on the Office of the Privacy Commissioner for Personal Data ('PCPD') and constraint of resources, the PCPD is not able to exercise effective regulation, and the responsible government departments concerned have also failed to seriously shoulder the responsibility of protecting personal data privacy; in this connection, this Council urges the Government to immediately adopt the following measures to protect the general public's personal data privacy right:

(a) to urge law enforcement departments to conduct a comprehensive and thorough investigation into all the companies and organizations involved in transfer and sale of clients' personal data and infringement of the public's privacy and to prosecute the same for criminal liability, and require such companies or organizations to destroy the public's personal data, which were illegally collected, under the supervision of an independent third party and to offer an apology and compensation to affected clients;

(b) to comprehensively review and amend the PDPO immediately to plug the loopholes of the legislation and eliminate the grey areas, and at the same time increase the criminal sanction to achieve a deterrent effect;

(c) to provide additional resources for the PCPD, so as to enhance its efficiency in handling complaints and step up enforcement to effectively protect the public's personal data privacy right;

(d) to introduce clear clauses and requirements to ensure that consumers have the right to opt in, so as to ensure that consumers provide their personal data within the scope of the 'purpose of data collection' as specified by the organizations concerned without threats and inducements, and to step up

efforts to combat and eradicate the indiscriminate collection of the public's personal data;

(e) to legislate the regulation of application forms for all kinds of membership cards, credit cards, etc., including requiring that the fonts and contents of the advice and terms on the protection of consumers' personal data privacy right should be reasonably legible, in terms of font size, location and surface area, to any person with normal eyesight, and ensuring that people who are unable to clearly read the terms and thoroughly understand the scope of data to be collected will still be provided with clear advice on the choices available to them and information on the protection of personal data privacy right;

(f) to legislate the regulation of all private and public corporations in Hong Kong by stipulating that they should in no circumstances transfer any personal data to third party companies, including their partner and subsidiary companies, without the explicit written consent and authorization from their clients, nor should such personal data be sold or used for profit-making purposes; and

(g) to make reference to successful overseas experience and the operation mode of the Airport Authority Hong Kong and actively explore the option of the public sector operating the 'Octopus' smart card, so as to ensure that the personal data privacy of millions of Hong Kong people who have to use the Octopus card can be protected in a comprehensive and effective manner, thus fully preventing the personal data privacy of all Hong Kong people from being turned into cash cows again by public or private corporations."

Hon James TO, Hon WONG Ting-kwong and Hon CHAN Kin-por will move separate amendments to Hon WONG Kwok-hing's motion.

Members will also debate a motion on facing up to the transport needs of people with disabilities.

The motion, to be moved by Hon LEUNG Yiu-chung, states: "That this Council passed motions on a number of occasions over the past few years calling for improvement to transport facilities for people with disabilities and offer of concessionary transport fares to them, but the Administration, some statutory transport corporations and other public transport operators still fail to fully face up to and give effect to the motions, and the crux of the problem is the Government's lack of a specific policy on fare concessions for people with disabilities and determination to make improvements; this Council strongly demands the Administration to take the lead in implementing and pushing various public transport operators to immediately and fully respond as well as give effect to the relevant motions previously passed by this Council and the recommendations in the Report of the Council's Subcommittee to Study the Transport Needs of and Provision of Concessionary Public Transport Fares for Persons with Disabilities in the last term; in addition, the Government must implement the following concrete measures to more comprehensively address the transport needs of people with disabilities so as to enable them to integrate into society more effectively:

(a) to formulate a policy on fare concessions on public transport for people with disabilities;

(b) in order to effectively assist people with disabilities in integrating into society, to adopt legislative, administrative and financial measures to press various major public transport operators to offer concessionary fares to them;

(c) to put forth, in the near future, specific proposals and a timetable for introducing half-fare concession on public transport for all people with disabilities, so as to help them integrate into society and improve their life;

(d) to allocate additional resources to comprehensively improve the Rehabus service and, in particular, enhance such

service for people with disabilities living in remote areas and new towns;

(e) to request the MTR Corporation Limited to expeditiously install facilities such as platform screen doors, platform gates and automatic mechanical gap fillers for all its rail lines in order to strengthen platform safety, and improve station facilities with a view to creating a barrier-free environment;

(f) to request various public bus companies to expeditiously replace their buses with low floor type buses to cater for the transport needs of people with disabilities, and when a bus makes stops, inform passengers of the routing arrangement through its public address system for the convenience of the blind, and at the same time incorporate provisions in the new franchise agreements on public bus services to require bus companies to offer concessionary fares to people with disabilities;

(g) to study subsidizing people with disabilities in need to purchase electrical wheelchairs so as to facilitate them to use public transport;

(h) to request the Transport Department to explore waiving the licence fee for people with disabilities who purchase private cars with a cylinder capacity of over 1500 c.c. so as to make it convenient for them to carry larger and heavier electrical wheelchair and supporting equipment, provide additional auto-fuel allowances for people with disabilities, subsidize drivers with disabilities for using private tunnels and provide parking spaces for them, so that people with disabilities do not have to pay high transportation fees; and

(i) to step up consultation with people with disabilities to fully realize the concept of 'Transport for All', and strictly regulate public transport operators in providing barrier-free facilities, so as to enable more people with disabilities to use public transport and integrate into society.

Hon WONG Kwok-hing and Hon Paul CHAN will move separate amendments to Hon LEUNG Yiu-chung's motion.

On bills, the Legislation Publication Bill will be introduced into the Council for First and Second Readings. Second Reading debate on the bill will be adjourned.

Meanwhile, Secretary for Food and Health will move a resolution under the Pharmacy and Poisons Ordinance to approve the Pharmacy and Poisons (Amendment) (No. 4) Regulation 2010 and the Poisons List (Amendment) (No. 4) Regulation 2010 made by the Pharmacy and Poisons Board on 13 September 2010. Secretary for Financial Services and the Treasury will also move a resolution under the Interpretation and General Clauses Ordinance to amend the Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (Brunei Darussalam) Order, which laid on the table of the Legislative Council on 7 July 2010.

During the meeting, Members will ask the Government 20 questions on various policy areas, six of which require oral replies. The agenda of the above meeting can be obtained via the Legislative Council InfoFax Service (Tel: 2869 9568) or the Legislative Council web site (<http://www.legco.gov.hk>).

Members of the public are welcome to observe the proceedings of the meeting from the public galleries of the Legislative Council Chamber. They may reserve seats by calling 2869 9399 during office hours. Seats will be allocated on a first-come-first-served basis. Members of the public can also listen to the meeting via the web broadcast system on the Legislative Council homepage.

Ends/Monday, October 18, 2010

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