

立法會
Legislative Council

LC Paper No. CB(1)2552/11-12
(These minutes have been seen
by the Administration)

Ref: CB1/SS/10/11

Subcommittee on Prevention of Bribery Ordinance
(Amendment of Schedules 1 and 2) Order 2012

Minutes of the second meeting held on
Friday, 13 April 2012, at 10:45 am
in Conference Room 2A of the Legislative Council Complex

Members present : Hon CHAN Kam-lam, SBS, JP (Chairman)
Hon James TO Kun-sun
Hon LAU Kong-wah, JP
Hon Audrey EU Yuet-mee, SC, JP
Dr Hon Samson TAM Wai-ho, JP

Public Officers : **Agenda item II**
attending

Miss Joey LAM, JP
Deputy Government Chief Information Officer
(Policy and Customer Service)
Commerce and Economic Development Bureau

Mr Davey CHUNG
Deputy Commissioner for Innovation and
Technology (Acting)
Commerce and Economic Development Bureau

Mr Manuel NG
Government Counsel
Department of Justice

Attendance by invitation : **Agenda item I**
Mr MOK Wah-hoi
Assistant Director
Corruption Prevention Department
Independent Commission Against Corruption

Clerk in attendance : Ms Joanne MAK
Chief Council Secretary (1)2

Staff in attendance : Miss Evelyn LEE
Assistant Legal Adviser 10

Ms Macy NG
Senior Council Secretary (1)2

Action

- I. Meeting with the Administration and representatives of Independent Commission Against Corruption**
- (LC Paper No. CB(1)1543/11-12(01) - Administration's response to issues raised at the meeting on 30 March 2012
 - LC Paper No. CB(1)1543/11-12(02) - Information paper entitled "Hong Kong Internet Registration Corporation Limited" provided by the Administration
 - LC Paper No. CB(1)1543/11-12(03) - Administration's response to issues raised at the meeting on 30 March 2012
 - L.N. 38 of 2012 - The Prevention of Bribery Ordinance (Amendment of Schedules 1 and 2) Order 2012 (the Order)
 - File Ref.: GCIO 11/1/36(C) - Legislative Council Brief issued by the Commerce and Economic Development Bureau and the Office of the Government Chief Information Officer

Action

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| LC Paper No. LS48/11-12 | - Legal Service Division Report on subsidiary legislation gazetted on 16 March 2012 |
| LC Paper No. CB(1)1452/11-12(01) | - Marked-up copy of the Order prepared by the Legal Service Division) |

The Subcommittee deliberated (index of proceedings attached at **Annex**).

2. The Administration briefed members on its paper setting out the Administration's response to the issues raised by members at the meeting on 30 March 2012. The Subcommittee noted the Administration's explanation of the provisions of the Prevention of Bribery Ordinance (POBO) (Cap. 201) governing the conduct of public servants and whether impropriety committed prior to the designation of the four organizations covered by the Order as public bodies could be pursued under POBO.

Admin 3. To facilitate members' further discussion at the next meeting, the Administration was requested to provide response to the following suggestions/concerns raised by members –

- (a) there should be a mechanism to regularly review whether any quasi-government organisation should be designated as a public body under POBO and to advise which government bureau should be responsible to oversee the matter;
- (b) the ordinary members of Hong Kong Internet Registration Corporation Limited (HKIRC) should also be made public servants under POBO; and
- (c) whether there were further anti-corruption measures to tighten the control of contractors engaged to provide services which were non-core but of a relatively sensitive nature (examples given by members included the outsourcing of telecommunications services by bureaux/departments and inspection of sites, which might involve the handling of sensitive information), or which required substantial public funds for the service delivery.

Action

Date of next meeting

4. Members agreed to schedule a further meeting with the Administration.

(Post-meeting note: The next meeting was scheduled for 25 April 2012 at 8:30 am.)

II Any other business

5. There being no other business, the meeting ended at 11:40 am.

Council Business Division 1
Legislative Council Secretariat
7 September 2012

**Proceedings of the second meeting of
the Subcommittee on Prevention of Bribery Ordinance
(Amendment of Schedules 1 and 2) Order 2012
on Friday, 13 April 2012, at 10:45 am
in Conference Room 2A of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
Agenda item I –Meeting with the Administration and representatives of Independent Commission Against Corruption (ICAC)			
000207 – 000313	Chairman	- Opening remarks	
000314 – 000819	Chairman Administration	- Briefing by the Administration on its response to issues raised by members at the last meeting on 30 March 2012 (LC Papers Nos. CB(1)1543/11-12(01) to (03))	
000820 – 000948	Chairman ICAC	- Briefing by ICAC on the consultative and advisory roles of the Corruption Prevention Department (CPD) of ICAC in the designation of public bodies	
000949 – 002029	Chairman Mr LAU Kong-wah Administration ICAC	<p data-bbox="603 1037 1248 1323">- ICAC's explanation that sensitive duties, such as law enforcement or those involving sensitive information, should be avoided from outsourcing from corruption prevention angle; and where there was a need to outsource, control on the service provider/contractor could be tightened by one or more than one of the following means, as appropriate:</p> <p data-bbox="603 1361 1248 1469">(a) made the service provider/contractor a public body where the circumstance warranted and permitted;</p> <p data-bbox="603 1507 1248 1659">(b) included probity requirement as one of the listing conditions or contract requirements to commit the service provider/contractor to ethical practice;</p> <p data-bbox="603 1697 1248 1872">(c) included in the contract requirements that the CPD of ICAC might conduct review on the systems and procedures of the service provider/contractor in relation to the delivery of the outsourced duties; and</p> <p data-bbox="603 1910 1248 1984">(d) stepped up supervisory control by the government department involved</p>	

Time marker	Speaker	Subject(s)	Action required
		<ul style="list-style-type: none"> - Mr LAU's concern on whether there were further anti-corruption measures to tighten the control of a contractor engaged to provide services which were non-core but of a relatively sensitive nature (examples included the outsourcing of telecommunications services by Government departments and inspection of sites, which might involve the handling of sensitive information), or which required substantial public funds for the service delivery 	
002030 – 003213	Chairman Ms Audrey EU ICAC Administration	<ul style="list-style-type: none"> - Discussion on why the Administration designated the four organisations as public bodies long after their establishment - Discussion on the existing institutional structure to conduct regular reviews on whether any organization should be designated as a public body under the Prevention of Bribery Ordinance (Cap. 201) (POBO) - Ms EU's concern that only 115 organizations (or 119 including the four organizations covered by the Prevention of Bribery Ordinance (Amendment of Schedules 1 and 2) Order 2012) had been designated as public bodies under POBO, which was a rather small number compared with the number of statutory bodies in Hong Kong - Request for the Administration to provide response to members' view that there should be a mechanism to regularly review the need to designate organisations carrying public missions as public bodies under POBO and to advise which government bureau should be responsible for overseeing the matter 	Administration to provide information/response (paragraph 3 of minutes)
003214 – 005345	Chairman Mr James TO Administration ICAC	<ul style="list-style-type: none"> - Mr TO's opinion that the proposed mechanism to regularly review whether any organisation should be designated as a public body under POBO should be referred to the relevant Panel for follow-up discussion - Request for the Administration's response on whether there were further anti-corruption measures to tighten the control of a contractor engaged to provide services which were non-core but of a relatively sensitive nature, or which required substantial public funds for the 	Administration to provide information/response (paragraph 3 of minutes)

Time marker	Speaker	Subject(s)	Action required
		<p>service delivery</p> <ul style="list-style-type: none"> - Discussion on a hypothetical situation that if certain Hong Kong Internet Registration Corporation Limited (HKIRC)'s ordinary members were offered advantage to elect a particular Director(s) who did not receive any advantage but would adopt certain policies that would be favourable to the giver of advantage concerning the registration of .hk domain names - Request for the Administration to provide response to some members' view that ordinary members of HKIRC should be made public servants for the purpose of POBO while executing their rights as members of HKIRC - ICAC's confirmation that the advice provided by the CPD of ICAC in 2007 to HKIRC was still valid after the re-organization of HKIRC from 2007 to 2009 	
005346 – 010623	Chairman Mr James TO Administration Ms Audrey EU	- Discussion on the legislative timetable	