

政制及內地事務局  
政府總部



CONSTITUTIONAL AND MAINLAND AFFAIRS BUREAU  
GOVERNMENT SECRETARIAT  
LOWER ALBERT ROAD  
HONG KONG

香港下亞厘畢道

本署檔號 OUR REF. : CMAB/II/1/16 Pt XXXVI  
來函檔號 YOUR REF : CB2/PL/CA  
電話 TEL NO. : 2810 2368  
圖文傳真 FAXLINE : 2840 1528

By Fax : 2509 9055

3 August 2010

Panel on Constitutional Affairs  
Legislative Council Secretariat  
Legislative Council Building  
8 Jackson Road  
Central  
Hong Kong  
(Attn: Miss Flora TAI)

Dear Miss Tai,

### **Appointment of the New Privacy Commissioner for Personal Data**

The Hon. Emily Lau and Mr Law Yuk-kai, Director of the Hong Kong Human Rights Monitor, wrote to the Chairman of the Panel on Constitutional Affairs on 28 July 2010 to express their views and suggestions on the appointee for the position of the Privacy Commissioner for Personal Data (“PC”). Some organisations and individuals have also expressed their concerns on this appointment. We now provide relevant information and our response on the issue.

### **Recruitment and Appointment of the PC**

The Government attaches great importance to the work of the PC. The appointment concerned was conducted through an open recruitment exercise with assistance from an executive search firm. The Selection Board comprised members with extensive experience and knowledge respectively in community services, public administration, corporate governance and management and other fields. The Selection Board was chaired by Mrs Laura M Cha, and its members comprised Professor Lawrence Lau Juen-ye, Dr Elizabeth Shing Shiu-ching and the Secretary for Constitutional and Mainland Affairs.

The Selection Board considered all candidates carefully in accordance with objective criteria (including leadership, management, vision, commitment, integrity, experience, knowledge and communication skills) and made a recommendation to the Chief Executive on the suitable candidate. After considering the recommendation of the Selection Board, the Chief Executive, in exercise of the powers conferred by section 5(3) of the Personal Data (Privacy) Ordinance (“PDPO”), appointed Mr Allan Chiang Yam-wang as the PC. The appointment was conducted fully in accordance with legal procedures.

Regarding some news reports on the handling of personal data when Mr Chiang was the Postmaster General, Mr Chiang and Hongkong Post already provided clarification on 24 and 27 July 2010 respectively. In considering the candidates, the Selection Board noted Mr Chiang’s vision towards and commitment in the protection of personal data privacy and considered that Mr Chiang was the suitable candidate having regard to fair and objective criteria.

Some organisations and individuals have expressed concerns over Mr Chiang’s ex-civil servant background. Indeed, in determining whether a candidate is capable of leading the Office of the Privacy Commissioner for Personal Data (“Office of the PCPD”), the most important consideration is the candidate’s administrative and management experience, commitment, leadership, integrity and communications skills etc. We believe that Mr Chiang will lead the Office of the PCPD to perform its statutory functions impartially. We also trust that under his leadership, the Office of the PCPD will strive to promote protection of personal data privacy in the community.

### **Paris Principles**

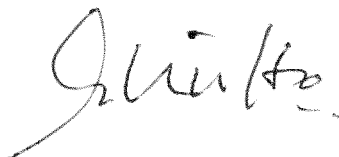
As regards the Paris Principles, they are the recommendations of a workshop convened in 1991 by the United Nations Centre for Human Rights on the role, composition, status and functions of national human rights institutions. The recommendations were adopted subsequently by the Commission on Human Rights. Although the recommendations are not mandatory from the legal point of view, we have all along respected the views of the Commission.

The Paris Principles relate to the status and functioning of national institutions for the promotion and protection of human rights. The Office of the PCPD is not the kind of national institution which is vested with such an extensive power. However, the Office of the PCPD is an independent statutory body which is vested with the various functions and powers conferred by the PDPO. The PC will continue to lead the Office of the PCPD in performing the functions and exercising the powers to protect personal data privacy.

### **PC's Attendance at Legislative Council ("LegCo") Meeting**

We have conveyed the views of the Hon. Emily Lau and Mr Law Yuk-kai to Mr Chiang. We believe that Mr Chiang will be happy to attend the meeting of the Panel on Constitutional Affairs when the LegCo resumes meeting in autumn to brief Members and the public on his vision and commitments in the protection of personal data privacy and his future work plan.

Yours sincerely,



(Arthur Ho)

for Secretary for Constitutional and Mainland Affairs