

**For Discussion on
15 July 2011**

**LEGISLATIVE COUNCIL
PANEL ON DEVELOPMENT**

**Management Scheme for the Display of Roadside
Non-commercial Publicity Materials**

Purpose

This paper sets out the Administration's plan to revise the Management Scheme for the Display of Roadside Non-commercial Publicity Materials ("Management Scheme").

The Existing Management Scheme

2. The display of bills and posters is regulated by the Public Health and Municipal Services Ordinance, Cap. 132. Under section 104A(1)(b), no bill or poster shall be displayed or affixed on Government land, except with the written permission of the Authority. Under section 104C, where a bill or poster is displayed in contravention of section 104A(1), the Authority may remove the bill or poster and may recover the cost of removal from the person displaying the bill or poster as a civil debt. It is an offence to display bills and posters on Government land without the said written permission. The Director of Food and Environmental Hygiene (DFEH) is the Authority to enforce sections 104A and 104C on Government land including public roads.

3. While the enforcement against illegal display of bills and posters including removal and prosecution actions is undertaken by the Food and Environmental Hygiene Department (FEHD), certain categories of officers in the Lands Department (LandsD) have been delegated the authority under section 104A(1)(b) of Cap. 132 by the DFEH to approve applications for use of designated spots on roadside railings and central dividers by Legislative Council (LegCo) and District Council (DC) Members, DCs and their committees, Government departments and non-profit making bodies to display non-commercial publicity materials. The arrangements have been formalized in the form of the Management Scheme which was implemented in 2003 after consultation with the 18 DCs in 2002 and the LegCo Panel on Planning, Lands and Works on 7 March 2003. The details of the existing Management

Scheme are set out in a pamphlet at **Annex A**.

4. At present there are 22 451 designated spots in the whole territory under the Management Scheme including 2 816 spots at central dividers, 3 342 spots within 10 meters on the traffic downstream side of the pedestrian crossings/road junctions and the remaining 16 293 spots in other locations. For road safety reasons, no banner spots are located at (a) the sections of roadside railings within 30 meters on the traffic upstream side of pedestrian crossings/road junctions (with the exception that banner spots within a one-way street will not be subject to the 30-meter safety restriction if they do not obstruct the views of drivers getting on to a major road); and (b) the sections of central dividers within 30 meters on both the traffic upstream and downstream sides of pedestrian crossings/road junctions because this is considered as the shortest stopping distance required by a general motorist to think and to stop his car after he has seen the danger on a road with a speed of 50km/h.

Review of the Management Scheme

5. The Ombudsman issued a report on “Control of Roadside Banners” in December 2008 putting forward a number of recommendations on the Management Scheme (a copy of the Report is at **Annex B**). The recommendations touched mainly on : (A) the objective of the Management Scheme; (B) the rules of the Management Scheme; and (C) the locations of the designated spots under the Management Scheme. The Administration thereafter gave careful consideration to the Ombudsman’s recommendations.

(A) Objective

6. To give effect to The Ombudsman’s recommendation to articulate the objective of the Management Scheme for public information, the Administration would be prepared to revise the objective as follows :

“The display of bills and posters on Government land including display of roadside publicity materials is an offence unless such display is with the written permission of the Authority by virtue of section 104A(1) of the Public Health and Municipal Services Ordinance, Cap.132. The Management Scheme aims at ensuring that the display of roadside publicity materials :

- (a) is for the purpose of the promotion of public awareness of matters of general and significant community interests of non-commercial nature. In this connection, priority will be given to such display

which is by LegCo and DC Members to communicate with their constituents, which seeks to promote public awareness or participation in matters of district administration and community building, and which is by the Government to promote important public events and campaigns such as the East Asian Games, “Keep Hong Kong Clean” and “Anti Drug Abuse”;

- (b) is permitted in an orderly fashion for those classes of persons specified in the Management Scheme at spots designated by the Authority;
- (c) will not prejudice the safety of pedestrians and motorists using the road concerned; and
- (d) is subject to such other terms and conditions provided in the Management Scheme such as the maintenance and removal of the banners.”

(B) Rules

7. Taking aboard the Ombudsman’s recommendations to revise the rules for proper administration of the Management Scheme, the Administration would be prepared to make clear in a revised pamphlet that –

- (a) the display of roadside publicity materials is for the purpose of the promotion of public awareness of matters of general and significant community interest of non-commercial nature. In this connection, priority will be given to such display :
 - (i) which is by LegCo and DC Members to communicate with their constituents, which seeks to promote public awareness or participation in matters of district administration and community building; and
 - (ii) which is by the Government to promote important public events and campaigns such as the East Asia Games, “Keep Hong Kong Clean” and “Anti-Drug Abuse”;
- (b) the information imparted must comply with the requirements below :
 - (i) the information must not promote any commodities, services provided at a fee, fee paying training courses and activities.

(However, the restriction does not apply to services, training courses and activities co-organised by government departments. For these cases, written confirmation from concerned government departments is required.);

- (ii) transfer, loaning out or assignment of the designated spots is not allowed;
 - (iii) there should be conspicuous and clear indication on the display itself of the individual or organisation allocated the spot. The individual or organisation must be the chief beneficiary of the display; and
 - (iv) the contents of the publicity materials to be displayed shall be in compliance with the laws of the Hong Kong Special Administrative Region. No publicity materials of an obscene or objectionable nature shall be displayed;
- (c) the approval of applications does not imply any endorsement or approval of the contents of the publicity materials by the Government of the Hong Kong Special Administrative Region or its officers; and
- (d) no commercial advertisement shall be permitted.

(C) Locations of the Designated Spots

8. The Ombudsman expressed concern that roadside banners could come loose over time or in poor weather conditions and this could pose traffic hazard, especially where they were attached to central dividers or close to pedestrian crossings. The Administration would therefore be prepared to replace all the 2 816 banner spots at central dividers and those 3 342 spots within 10 meters on the traffic downstream side of pedestrian crossings/road junctions. The Administration would find the replacement spots to make up the original number of 22 451 spots, albeit that the 6 158 replacement spots could well be located in less prominent locations than the original ones.

Public Consultations

9. The Administration sought the views of the motorist associations/road safety concern groups and academics in July 2010 on the recommendations to replace the designated spots at central dividers of roads and within 10 meters on the traffic downstream side of pedestrian

crossings/road junctions. The consultees generally supported the proposed changes from the traffic safety grounds. The Administration also conducted a public opinion survey in May 2010. The results showed that the public were largely in favour of the proposal to replace the existing banner spots at central dividers and those within 10 meters on the traffic downstream side of pedestrian crossings/road junctions.

10. To take forward the above changes to the Management Scheme, LandsD, together with FEHD, Transport Department (TD) and Home Affairs Department consulted the Chairmen and Vice-chairmen of the 18 DCs on 17 June 2010, followed by a district by district consultation with the 18 DCs. DC Members were generally receptive to the proposed changes regarding the objective and rules of the Management Scheme. As for the locations of the spots to be replaced, DC Members' views were diverse. In general, DC Members viewed the prohibition of banners on central dividers as less controversial given the road safety concerns but opposed more strongly against the 10-meter traffic downstream prohibition.

11. During the consultation, DC Members also commented on the enforcement against unauthorized banners. Members voiced dissatisfaction with the current enforcement efforts against unauthorized publicity materials. Some DC Members criticized the Administration for not being proactive enough in taking enforcement actions. DC Members generally considered that a more comprehensive enforcement system should be put in place and called for enhanced enforcement action against all unauthorized publicity materials.

12. The Administration noted that DCs are generally supportive of the revised objective and rules and would proceed to implement the revised versions. After carefully reflecting on DCs' views on the locations of the designated spots, the Administration would be prepared to revise its earlier plan by proceeding to replace only the 2 816 banner locations at the central dividers of roads and to keep the 3 342 spots within 10 meters on the traffic downstream side of the pedestrian crossings/road junctions pending further study. There would be replacement spots for the 2 816 banner locations at the central dividers and so the total number of banner locations would remain unchanged at 22 451. More information would be collected to assess the need to replace the banner spots at less than 10-meter downstream from pedestrian crossings/road junctions.

13. To address DCs' concerns, the Administration would step up the enforcement action against unauthorized publicity materials. Unauthorized display outside the designated spots as well as the authorized ones not

complying with the revised implementation rules would be removed and the removal cost would be recovered pursuant to section 104C of Cap. 132. Prosecution may also be taken where appropriate.

14. The Chairmen and Vice-chairmen of the DCs were briefed on 16 June 2011 of the Administration's revised plan to implement a revised Management Scheme. They were generally supportive of the revisions and the proposed enhancement of enforcement against illegal display of banners. They also agreed that the implementation of the revised plan could improve traffic safety and the cityscape.

Implementation of the Revised Management Scheme

15. A new pamphlet to promulgate the revised Management Scheme will be published later this year. Thereafter, enhanced enforcement action will be taken against all unauthorised publicity materials.

16. Under the arrangements for the DC election to be held on 6 November 2011 and Election Committee Subsector (ECSS) elections to be held on 11 December 2011, all approvals given for the display of publicity materials will be revoked before the DC election. Therefore, LegCo Members, DC Members and other users of designated spots will not be allowed to display publicity materials starting from mid August 2011 until the completion of DC and ECSS elections and removal of the election advertisements by the candidates of the elections. After the DC election, LandsD will invite the DC Members of the next term to choose their designated spots and current LegCo Members to choose the replacement spots for replacing the cancelled spots at central dividers (if any). The allocation of designated spots will be completed by the end of December 2011. Regarding the designated spots which were allocated to LegCo Members before the DC election (except for the cancelled spots at central dividers), they will be returned to the concerned LegCo Members on 1 January 2012. Hence, all LegCo and DC Members may start displaying publicity materials on 1 January 2012.

Lands Department
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