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11 July 2012

Miss Flora TAI
Clerk to Panel on Constitutional Affairs
Legislative Council
Legislative Council Complex
1 Legislative Council Road
Central
Hong Kong

Dear Miss Tai,

**Panel on Constitutional Affairs
Electorate of the Information Technology Functional Constituency (“IT FC”)**

Thank you for your letter dated 25 June 2012, relaying to us a letter from the IT Voice 2012 stating their concerns over the inclusion of the Hong Kong Information Technology Joint Council (“HKITJC”) into the electorate of the IT FC. This letter sets out the Administration’s response to the letter.

In the 2012 provisional register for the IT FC, there are a total of 6 721 registered electors of whom 6 338 are individual electors and 383 are corporate electors. As compared with 5 532 registered electors in the 2011 final register for the IT FC, there is an increase of 1 189 electors in the 2012 provisional register.

The HKITJC was included into the electorate of the IT FC by the Legislative Council (Amendment) Ordinance 2011, which was enacted by the Legislative Council (“LegCo”) in March 2011 and came into effect subsequently. By virtue of sections 20Z(1)(a) and 25(6) of the Legislative Council Ordinance (Cap. 542) (“the Ordinance”), a person is eligible to be registered in the IT FC if he –

- is a member of the HKITJC;
- is entitled to vote at general meetings of the HKITJC; and
- has been a member of the HKITJC for the 12 months immediately before making an application for registration as an elector.

Under sections 3(2A) and 3(2B) of the Ordinance, any amendments or substitutions of constitutions relating to the objects, criteria and conditions of membership or the eligibility of members to vote at general meetings of an umbrella organization have to be approved in writing by the Secretary for Constitutional and Mainland Affairs (“SCMA”). Since the HKITJC was included into the IT FC in 2011, the SCMA has never received any applications from the HKITJC to amend or substitute its constitution. Hence, for purposes of voter registration in the IT FC, the criteria for a person to be registered in the IT FC through membership in the HKITJC have not been changed since the inclusion of HKITJC into the composition of IT FC. It is the responsibility of the HKITJC to update its membership information in accordance with its constitution and provide accurate information to the Registration and Electoral Office (“REO”) for voter registration purposes.

We would like to take this opportunity to brief Members on the registration of IT FC electors by members of the Internet Professional Association Limited (“iProA”) which has been covered by recent media reports.

Section 20Z(1)(ja)(iii) of and Schedule 1D to the Ordinance provide that a person is eligible to be registered in the IT FC if he –

- is a member of the iProA;
- is confirmed by the iProA to have had experience in the information technology (“IT”) field, as specified in the constitution of iProA, during the relevant period, i.e. the period of four years immediately preceding the date on which that person applies for registration as an elector of the IT FC; and
- is entitled to vote at general meetings of the iProA.

According to the information provided by the iProA, only Fellow and Full Members of the iProA are entitled to vote at its general meetings. The relevant sections in the iProA’s constitution provide that Full Members comprise only “persons who hold a relevant degree or professional qualifications with at least two years of experience in the IT fields”.

We understand that the Articles of Association governing membership criteria in the Constitution of iProA were amended in 2005. The amendments include, inter alia, adding a new alternative criteria (i.e. "those who hold a relevant associate degree or equivalent qualifications with at least six years of experience in the IT fields") for becoming a Full Member. While the Administration has no objection to the amendment to be effective for the internal and external business of the iProA, approval from the Secretary for Constitutional Affairs (now SCMA) was withheld for the operation of the sections 3(2A) and 3(2B) of the Ordinance on the grounds that the amendment would have an impact on the electorate size of the IT FC and based on information provided by iProA it was not possible to ascertain the extent or scale of the impact accurately. Hence Full Members admitted under the new alternative criteria will not be eligible to be registered as electors in the IT FC. This arrangement is well understood by iProA. The REO has been reminding iProA of the above when requesting them to provide information on its members for voter registration purposes.

We would like to stress that for voter registration purposes, it is an offence under the relevant Electoral Affairs Commission regulation for any person to make any statement which the person knows to be false in a material particular or recklessly make any statement which is incorrect in a material particular, or knowingly omit any material particular. Offenders are punishable by a fine of \$5,000 and six months' imprisonment.

According to the relevant Electoral Affairs Commission regulation, the public may lodge claims or objections in respect of the registration or omission of any elector in the provisional register by 29 June in a non-District Council Election year. By the deadline of 29 June this year, there were no claims or objections in respect of the registration or omission of any of the electors in the IT FC.

We would like to reiterate that the Administration and the Electoral Affairs Commission are committed to ensuring elections are conducted in an open, fair, honest and clean manner.

Yours sincerely,



(Keith MOK)

for Secretary for Constitutional and Mainland Affairs