

立法會

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Panel on Constitutional Affairs

Background brief prepared by the Legislative Council Secretariat for the meeting on 15 July 2013

Display of roadside publicity materials during by-elections

Purpose

This paper provides background information on the display of roadside publicity materials during by-elections, and gives an account of the past discussion of the Panel on Constitutional Affairs ("the Panel") on the subject.

Background

2. Under paragraph 8(d) of the Management Scheme for the Display of Roadside Non-Commercial Publicity Materials Implementation Guidelines ("the Guidelines") implemented by the Lands Department, applications and approvals for display of publicity materials will be temporarily suspended or revoked during election periods ("the removal arrangement"). A copy of the Guidelines is in **Appendix I**. Accordingly, before each Legislative Council ("LegCo") general election and District Council ("DC") ordinary election, the Registration and Electoral Office seeks the assistance of the relevant departments to revoke all approvals previously given to persons (including incumbent LegCo Members and DC members) and organizations to display publicity materials at Government land and premises, including roadside railings on Government land¹. The persons and organizations concerned are required to remove the publicity materials at their own costs before a deadline specified by the departments. Any publicity material remaining after the deadline will be removed by the Government with the costs of removal claimed back from the persons or organizations.

¹ The Lands Department manages the roadside banner spots. The Housing Department manages the banner spots and poster spots inside housing estates. The Leisure and Cultural Services Department also manages the display spots at its venues.

Proposed changes to the removal arrangement in respect of the 2010 LegCo By-election

3. The Administration consulted the Panel at its meeting on 19 March 2010 on the Administration's review of the removal arrangement. According to the Administration, the removal arrangement also applied during by-elections in respect of all the publicity spots in the relevant constituency. However, some LegCo Members and political parties had expressed concern about the removal arrangement in respect of the LegCo By-election scheduled to be held on 16 May 2010. They considered that the arrangement seriously affected the normal work of the incumbent LegCo Members and DC members. The removal and subsequent reinstatement of the publicity materials would also lead to a waste of resources. Following its review on the removal arrangement, the Administration considered that while the status quo should be maintained for future LegCo general and DC ordinary elections, i.e. to continue to require all persons and organizations, including incumbent LegCo Members and DC members, to remove their publicity materials displayed at the public display spots, the following two options in respect of the handling of publicity materials at public display spots during by-elections were put forward for members' consideration –

- (a) Option A : to maintain the status quo, i.e. to continue to require all persons and organizations, including incumbent LegCo Members and DC members, to remove their publicity materials displayed at the public display spots; or
- (b) Option B : to allow the incumbent LegCo Members or DC members to keep the allocated public display spots during the 2010 LegCo By-election, with certain safeguards as set out in **Appendix II** to ensure fairness of the By-election.

4. Some members expressed support for Option A as it had been a long-standing practice which had been adopted in all previous by-elections without exception and proven to be fair. These members were concerned that if incumbent LegCo Members and DC members were allowed to keep their public display spots, it was possible that some of the voters who saw the publicity materials of an incumbent LegCo Member/DC member might be confused as to whether that Member/member was running for the By-election.

5. Some other members, however, expressed support for Option B. They considered that if incumbent LegCo Members and DC members had to remove all the publicity materials at allocated public display spots, it would deprive them of the means to communicate with the public during the by-election period. In particular, the 2010 LegCo By-election covered all five geographical constituencies ("GCs"). These members were of the view that the removal of

publicity materials would seriously affect their normal work. They also agreed that safeguards should be put in place to ensure the fairness of the 2010 LegCo By-election. For instance, incumbent LegCo Members and DC members should be prohibited from using their allocated display spots to promote the candidacy of individual candidates in the By-election.

6. The Administration advised that the number of candidates involved in a by-election was generally smaller than that in a general or ordinary election. While it was important to ensure adequate publicity for the candidates, it was also important to ensure that the public would continue to be informed about the services of the incumbent LegCo Members/DC members, particularly those not participating in a by-election. The Administration considered that although concurrent display of publicity materials of incumbent members and candidates might cause confusion to some electors, the problem should be manageable. This was evident in the 2007 DC Ordinary Election and the 2007 LegCo Hong Kong Island GC By-election, when there was an overlap of publicity period during which the banners for both elections were displayed at the same time in the Hong Kong Island GC.

7. The Administration subsequently announced that it would allow incumbent LegCo Members and DC members who intended to use the public display spots already allocated to them to continue to use the spots to communicate with the public during the 2010 LegCo By-election. To ensure the fairness of the By-election, such spots should not be used for the purpose of promoting or prejudicing the election of any candidate in the By-election. A press release on the subject was issued by the Administration on 26 March 2010 [LC Paper No. CB(2)1187/09-10(01)], a copy of which is in **Appendix III** for members' easy reference.

Recent development

8. The Administration has proposed to discuss issues in relation to display of roadside publicity materials during a DC by-election at the next Panel meeting on 15 July 2013.

Relevant papers

9. A list of relevant papers available on the LegCo website is in **Appendix IV**.

路旁展示非商業宣傳品管理計劃實施指引

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

1. 目標綱領

在政府土地上展示招貼及海報，包括展示路旁宣傳品，除非獲得主管當局根據《公眾衛生及市政條例》(第 132 章)第 104(A)1 條給予書面准許¹，否則即屬違法。管理計劃旨在確保展示路旁宣傳品：

- (a) 是為了提高公眾對涉及一般和重大社區利益的非商業性質事宜的關注。因此，立法會議員及區議會議員為促進公眾關注或參與地方行政和社區建設事務而與選民溝通所展示的宣傳品，以及政府為推廣如「東亞運動會」、「清潔香港」及「禁毒」等重要公眾活動和宣傳運動而展示的宣傳品，會獲優先考慮；
- (b) 是以有秩序的方式獲得許可，由管理計劃內訂明的各類別人土展示於主管當局指定的展示點；
- (c) 不會危害使用有關道路的行人及駕駛者的安全；以及
- (d) 符合管理計劃下的其他條款及條件，例如有關保養及移走橫額的規定。

2. 指定展示點的分配

(a) 立法會議員

地方選區的立法會議員，每位一般可在其地方選區所覆蓋的每個區議會區內選取 50 個指定展示點²。功能界別的立法會議員，每位一般可在全港 18 個區議會每區內選取 9 個指定展示點²。議員須將其指定展示點平均分布於各區議會區內。除了一些有特別需要的功能界別議員外，議員在一個區議會區內可以有超過配額最多 2 個的指定展示點，惟其所得指定展示點的總數不得超逾以上所述的總體限額。

(b) 區議員

每位民選區議員一般可在其選區內選取 10 個指定展示點，每位當然或委任議員一般亦可在其區議會區內選取 10 個指定展示點；實際數目視乎個別區議會對地政處提出的意見而定。

(c) 如有需要，地政處或會抽籤決定分配指定展示點。有關申請人會獲邀監察抽籤過程。

(d) 立法會或區議會議員放棄使用的指定展示點，會撥入其他使用者的配額內，以供其他使用者，例如政府部門及非牟利團體申請。前述議員日後有需要時，可從該配額中選取指定展示點。

1. Objective

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 permission¹ 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 Legislative Council (LegCo) and District Council (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.

2. Allocation of Designated Spots

(a) LegCo Members

Each LegCo Member from Geographical Constituencies (GCs) can in general choose 50 designated spots in each of the DC districts within his/her own GC². For Functional Constituencies (FCs), each Member may in general choose 9 designated spots in each of the 18 DC districts². Members shall distribute their designated spots evenly among the DC districts. With the exception of certain FC Members with special needs, Members may exceed their aforesaid quota by up to two spots in a DC district provided that the overall total number of their designated spots is not exceeded.

(b) DC Members

Subject to any advice of individual DCs to the District Lands Offices (DLOs), each elected DC Member may in general choose 10 designated spots in his/her own constituency. Each ex officio or appointed member may also in general choose 10 designated spots in his/her own DC District.

(c) Ballots may be conducted by the DLO to allocate the designated spots, if necessary. Applicants concerned will be invited to witness the balloting process.

(d) When designated spots are not taken up by LegCo or DC Members, they will be transferred to the quota for other users, e.g. government departments and non-profit making organisations. These Members may select designated spots from such quota when they need them in future.

¹ 地政總署若干類別人員獲食物環境衛生署署長根據第 132 章第 104A(1)(b)條授權發出該准許

² 現時以下 5 區（大埔、西貢、荃灣、葵青及灣仔）除外

¹ Certain categories of officers in the Lands Department have been delegated the authority under section 104A(1)(b) of Cap. 132 by the Director of Food and Environmental Hygiene to give such permission.

² At present, with the exception of five districts (Tai Po, Sai Kung, Tsuen Wan, Kwai Tsing and Wanchai)

- (e) 其他使用者
- 每個區議會區內至少有 30 個指定展示點，可供有關區議會及其轄下委員會申請。
 - 每個區議會區內至少有 50 個指定展示點，可供政府部門(包括民政事務處)申請。
 - 每個區議會區內至少有 100 個指定展示點，可供非牟利組織申請來展示以該區居民為對象的宣傳品³。非牟利組織包括由政府資助或根據《稅務條例》(第 112 章)第 88 條獲豁免繳稅的非政府組織及慈善團體、根據《社團條例》(第 151 章)登記的組織、根據《職工會條例》(第 332 章)及《職工會登記規例》(第 332A 章)登記的職工會及其他合法註冊的團體。獲批准的申請團體每次最多可獲分配 5 個指定展示點。
- (f) 配予各類別使用者的實際配額，可視乎指定展示點的整體供求而調整。
- (g) 指定展示點一經分配後，使用者不得將其轉讓、借出或分派給其他人士或團體使用。

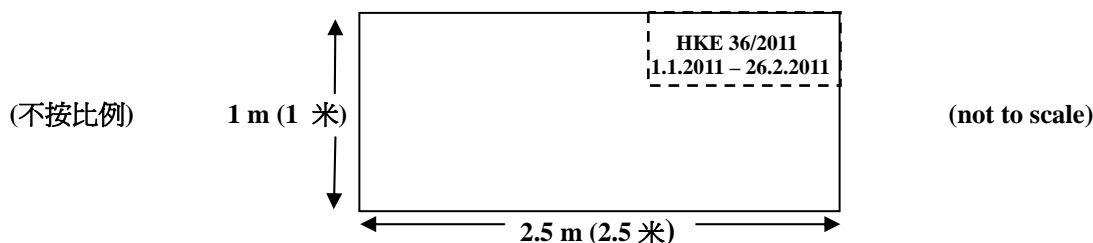
3. 使用期

給予上文第 2(a)及(b)段類別使用者的准許期限，一般涵蓋其在有關議會的整段任期。上文第 2(e)(i)及(ii)段類別使用者獲准許的展示期，視乎宣傳活動的性質而定。至於上文第 2(e)(iii)段類別申請人的准許期限，則為兩個公曆月，惟不包括最後兩天。在不影響其他申請者的原則下，上文第 2(e)段類別使用者延長展示期的申請可能會獲得批准。

4. 宣傳品尺碼

宣傳品的高度不得超逾 1 米，長度不得超逾 2.5 米。展示有關規格的說明圖則，載於圖一。

圖一. 路旁宣傳橫額/街板規格



在宣傳橫額/街板右上角的核准編號及展示期的字體不得小於 2.5 厘米 x 2.5 厘米。

5. 指定展示點的位置

指定展示點只會設於路旁，但不包括快速公路、行車天橋和行人天橋的外部。在同一位置分別面向行人路及行車道的宣傳品，會作佔用兩個指定展示點計算。

6. 禁制展示區

為交通安全起見，下列地點列為禁制展示區：

- 政府建造的行人過路處，包括燈號控制過路處、斑馬線或行人輔助線的交通上游 30 米範圍內；
- 道路中央分隔欄；以及

(e) Other users

- There are at least 30 designated spots in each DC district for application by the relevant DC and its committees.
 - There are at least 50 designated spots in each DC district for application by government departments (including the District Offices).
 - There are at least 100 designated spots in each DC district for application by non-profit making bodies for the display of publicity materials serving the local community³. Non-profit making bodies include non-governmental organisations (NGOs) and charitable bodies either subvented by government or exempted from paying tax under Section 88 of the Inland Revenue Ordinance, Cap. 112, organisations registered under the Societies Ordinance, Cap. 151, trade unions registered under the Trade Unions Ordinance, Cap. 332 and the Trade Union Registration Regulations, Cap. 332A, and other legally registered bodies. Each successful applicant will be allocated a maximum of 5 designated spots.
- (f) The actual quota for each class of users can be adjusted depending upon the total demand and number of designated spots available.
- (g) Once allocated, no transfer, loaning out or assignment of the designated spots by a user is allowed.

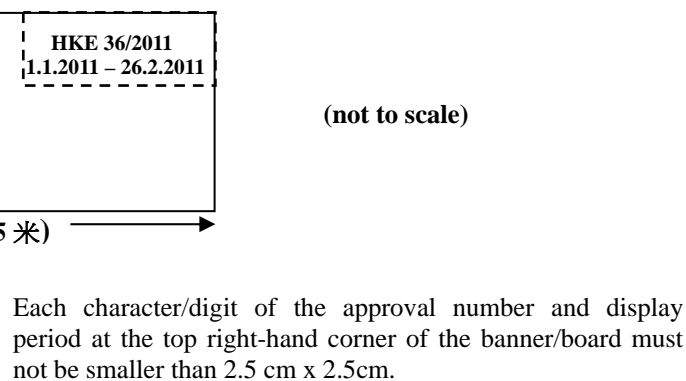
3. Term

Permission given to users under paragraph 2(a) and (b) above will normally cover the tenure of their term with their Councils concerned. The period of permission for users in paragraph 2(e)(i) and (ii) above will depend on the nature of events promoted. The permission under paragraph 2(e)(iii) above will cover a display period of two calendar months less the last 2 days. Applications from users in paragraph 2(e) above for extension of display periods may be granted provided that there is no prejudice to other applicants.

4. Size of Publicity Materials

The size of the publicity materials shall not exceed 1 metre in height and 2.5 metres in length. An illustrative plan showing the specifications is at Figure I.

Figure I. Roadside Banner/Board Specifications



Each character/digit of the approval number and display period at the top right-hand corner of the banner/board must not be smaller than 2.5 cm x 2.5cm.

5. Location of Designated Spots

Designated spots will be located on the roadside only excluding expressways, flyovers and the external faces of footbridges. Publicity material(s) facing both the pavement and the roadway will be counted as occupying two designated spots.

6. No Banner Zones

For road safety purposes, the following locations will be designated as no banner zones:

- within 30 metres on the traffic upstream side of government built pedestrian crossings including signal-controlled crossings, zebra crossings or cautionary crossings;
- on central divider of roads; and

³ 現時灣仔區除外

³ At present, with the exception of Wanchai district

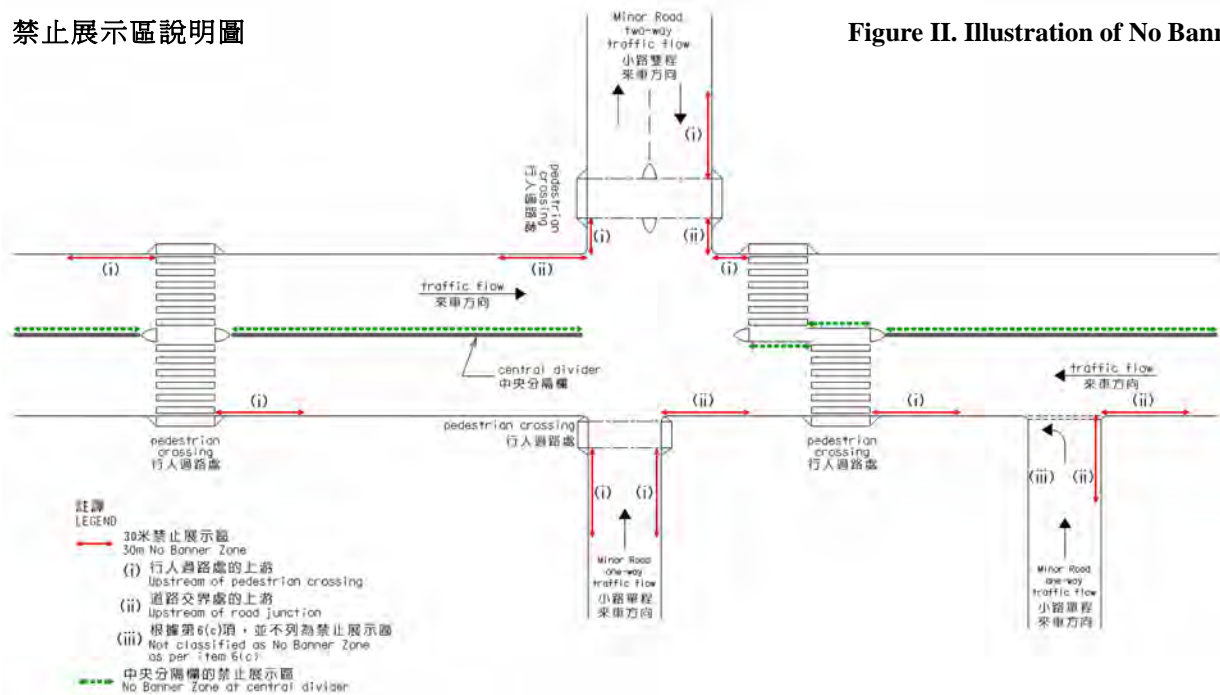
- (c) 位於路口交通上游 30 米範圍內的路旁。但位於單程路之內近路口位置，如不阻擋駕駛者駛出大路的視線，則不在此限。
禁止展示區的說明圖則，載於圖二。

- (c) within 30 metres on the traffic upstream side of all road junctions, but location within a one-way street near junction will not be subject to this restriction if they do not obstruct the views of drivers getting on to the major road.

A plan illustrating the No Banner Zone is in Figure II.

圖二. 禁止展示區說明圖

Figure II. Illustration of No Banner Zone



7. 宣傳品內容

(a) 展示路旁宣傳品，是為了提高公眾對涉及一般和重大社區利益的非商業性質事宜的關注。因此，以下展示品會獲優先考慮：

- (i) 立法會議員及區議會議員為促進公眾關注或參與地方行政和社區建設事務而與選民溝通的展示品；以及
 - (ii) 政府為推廣如「東亞運動會」、「清潔香港」及「禁毒」等重要公眾活動和宣傳運動的展示品；
- (b) 所載資料必須符合以下規定：
- (i) 有關資料不得宣傳任何商品、收費服務，或任何收費的訓練課程和活動（與政府部門合辦的服務、訓練課程和活動不在此限，但須取得有關部門的書面確認）；
 - (ii) 展示品上須明確清楚地顯示獲分配展示點的個人或團體名稱，而該個人或團體須為有關展示品的主要受惠者；
 - (iii) 非牟利公眾活動的宣傳品如印有給予贊助的商業機構或公益金之類的非牟利組織的名稱及標識，必須事先得到地政專員批准；贊助機構的名稱及標識所佔的總面積，不得超過宣傳品面積的十分之一；
 - (iv) 宣傳品的內容須遵從香港特別行政區的法律。不得展示任何淫褻或意識不良的宣傳品；以及
 - (v) 不得展示任何商業廣告。
- (c) 獲得發給准許，並不表示宣傳品的內容得到香

7. Content of Publicity Materials

(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) 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;
 - (iii) publicity materials containing names and logos of commercial firms or non-profit making bodies such as the Community Chest sponsoring non-profit making public activities are subject to the prior approval of the District Lands Officer and the aggregate size of the names and logos of the sponsors shall not be larger than one tenth of the area of the publicity material;
 - (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; and
 - (v) no commercial advertisement shall be permitted.
- (c) The grant of a permission does not imply any

港特別行政區政府或其人員的任何同意或許可。

endorsement or approval of the contents of the publicity materials by the Government of the Hong Kong Special Administrative Region or its officers.

8. 申請的處理

- (a) 申請人須在預定展示期之前最少一個月，把填妥的申請表送達有關地政處。如申請表並未填妥，或遞交申請的時間不足一個月，地政處均不能保證可在預定展示日期前批核有關申請。不過，如情況特殊，具備理據的緊急申請亦會獲得處理。地政專員可就發出的准許附加適當的條款及條件。
- (b) 供非政府機構及慈善團體申請的指定展示點，會以 5 個散布於區內各處的指定展示點為一組分配，以供這類型的申請者使用。
- (c) 申請人一律會獲書面通知申請結果，有關申請無須繳付任何費用。
- (d) 在選舉期間，主管當局會暫時停止辦理有關申請及撤銷已發出的准許。

8. Processing of Applications

- (a) Duly completed applications shall be submitted to the relevant DLO no later than one month before the applicant's intended display period. The DLO cannot guarantee approval of the application by its intended display date if the application is incomplete or is submitted less than one month beforehand. However, urgent applications with justifications under special circumstances will also be processed. A District Lands Officer may grant a permission subject to terms and/or conditions as appropriate.
- (b) Designated spots for applications by NGOs and charitable bodies will be divided into groups. Each group consists of 5 different designated spots, located in various parts of the district to cater for the needs of such applications.
- (c) All applicants will be notified of the results in writing. No fees will be charged for applications.
- (d) During election periods, processing of applications will be temporarily suspended and permissions already given will be revoked by the Authority.

9. 宣傳品的展示和管理

- (a) 每件宣傳品的右上角均須以不小於 2.5 厘米 x 2.5 厘米的字體標明其核准編號及核准展示期(參看圖一)。宣傳品的內容須與申請表所述的相同；如獲地政專員書面同意，申請人可改動宣傳品的內容。
- (b) 宣傳品須在所選擇/獲分配的指定展示點上展示，並須穩固和與各別地裝設妥當，確保不會於風中搖擺，亦不會阻礙行人或車輛交通。
- (c) 嚴禁以金屬線或釘子把宣傳品穩固在任何公路結構、欄杆、分隔欄、圍欄、標杆或任何其他街道設施上。申請人須採取措施，防止裝有宣傳品的任何公路結構、欄杆、分隔欄、圍欄、標杆或任何其他街道設施受損。因展示宣傳品而對道路構件及街道設施等造成的任何損毀，會由路政署修復至路政署總工程師滿意的程度，費用概由申請人承擔。
- (d) 宣傳品如被發現阻礙任何公共道路、行人天橋或街道設施的保養、改善或維修工程，須由申請人自費移走，並達至路政署總工程師滿意的程度。倘若宣傳品阻礙任何緊急維修工程開展或會受到該等工程的影響，當局可將宣傳品移走而無須事先通知申請人。
- (e) 申請人須對宣傳品及其內容承擔一切責任，並須同意就地政專員批准展示宣傳品所引致或因此而引致的一切責任、費用、開支、行動、訴訟、申索及要求，永久負責彌償香港特別行政區政府及/或其任何人員的損失。
- (f) 申請人須於核准展示期屆滿後立即移走宣傳品。
- (g) 食物環境衛生署署長會依據香港法例第 132 章賦予的權力移走未經許可或不遵照本實施指引及/或地政專員就有關准許施加的條款及/或條件展示的宣傳品，而不作任何事先通知，並可對有關人士採取法律行動和追討移走宣傳品的費用。

9. Display and Management of Publicity Materials

- (a) Each piece of publicity material to be displayed will be required to bear on its top right hand corner the approval number and the approval period with characters/digits of not smaller than 2.5cm x 2.5cm in size (see Figure 1). The content of publicity materials must be the same as that described in the application form. Subject to the written consent of the District Lands Officer, the applicant may alter the content of the publicity materials.
- (b) The publicity materials must be displayed at the chosen/allocated designated spots and shall be firmly and separately fastened so that they will not dangle in the wind or cause obstruction to pedestrians and vehicular traffic.
- (c) The use of wire and nail for fixing the publicity materials onto any highway structure, railing, barrier, fence, post or any other street furniture is strictly prohibited. The applicant shall take measures to prevent damage to any highway structure, railing, barrier, fence, post or any other street furniture on which any publicity materials are affixed. Any damage to road elements and street furniture etc. caused by the hanging of publicity materials will be reinstated by the Highways Department at the applicant's cost to the satisfaction of the Chief Highways Engineer of the Highways Department.
- (d) The applicant shall at his own expense and to the satisfaction of the Chief Highway Engineer of the Highways Department remove the publicity materials when they are found obstructing any maintenance, improvement or repair works of the public roads, footbridges or street furniture. The publicity materials may be removed without any prior notice to the applicant if they obstruct the carrying out of any emergency repair works or may be affected by such works.
- (e) The applicant is responsible for the publicity materials and the contents thereof and agrees to indemnify and keep indemnified the Government of the Hong Kong Special Administrative Region and/or any of its officers against all liabilities, costs, expenses, actions, proceedings, claims and demands arising out of or in connection with the permission granted by the District Lands Officer for the display of the publicity materials.
- (f) Upon expiry of the approved period of display, the publicity materials shall be removed immediately by the applicant.
- (g) Publicity materials which are unauthorized or not in compliance with these implementation guidelines and/or any of the terms and/or conditions that the District Lands Officer has imposed in relation to the relevant permission will be removed by the Director of Food and Environmental Hygiene (DFEH) without prior notice pursuant to his authority under Cap. 132. DFEH may take legal action and claim removal expenses against the parties concerned.

Legislative Council Panel on Constitutional Affairs

**Designated Display Spots for
Candidates of the 2010 Legislative Council By-election**

(Extract)

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17. If we go for the option of not clearing the display spots allocated to incumbent LegCo and DC members during election period for the upcoming By-election, we will need to address the following issues relating to fairness:

- (a) Diverse location and prominence of spots available for allocation

The display spots vacated by the resigned LegCo Members, DCs and its Committees and Subcommittees, Government departments and NGOs and those unallocated may come from very different locations and of varying degrees of prominence. Extra care would be required on the part of Returning Officers to categorise and distribute the spots in batches of equal prominence.

- (b) Display spots allocated to candidates in their capacity as DC member

It is possible that an incumbent DC member may stand for the By-election in the LegCo GC in which the DC is situated. To avoid the candidate concerned gaining an unfair advantage over other candidates, the total number of display spots allocated to such a candidate in his/her capacity as candidate and as incumbent DC member must be the same as that allocated to other candidates. To ensure fairness, one option is for us to require the candidate concerned to give up all the spots allocated to him/her as incumbent DC member.

- (c) Promotion of candidates at display spots allocated to incumbent LegCo and DC members

If the display spots of incumbent LegCo and DC members are not cleared during the period of the By-election, some may promote the candidacy of individual candidates through their allocated display spots. Under the Elections (Corrupt and Illegal Conduct) Ordinance (ECICO), such publicity materials,

with the purpose of promoting or prejudicing the election of a candidate or candidates at the election, would be considered as election advertisements. The relevant requirements relating to election advertisements under the ECICO and the election guidelines issued by the Electoral Affairs Commission (EAC) would apply. For example, persons who incur expenses in producing the election advertisements would require prior appointment by the candidates concerned as election expense agents. Copies of the election advertisements would need to be deposited with the Returning Officers before display, and expenses of the election advertisement would count towards the election expenses and would need to be included in the election return.

To maintain fairness and minimize disputes, we should remind all LegCo and DC members concerned about the relevant provisions of the ECICO and election guidelines.

These safeguards will need to be worked out in more detail, if the option of allowing incumbent LegCo and DC members to keep their allocated display spots is adopted.

Constitutional and Mainland Affairs Bureau
March 2010

Appendix III

Press Releases

Designated display spots for candidates in 2010 Legislative Council by-election

The Government will allow incumbent Legislative Council (LegCo) and District Council (DC) members who intend to use the public display spots already allocated to them to continue to use the spots to communicate with the public during the LegCo by-election period. To ensure the fairness of the by-election, such spots should not be used for the purpose of promoting or prejudicing the election of any candidate in the by-election.

Under paragraph 8(d) of the Management Scheme for the Display of Roadside Non-commercial Publicity Materials Implementation Guidelines, applications and approvals for designated spots for the display of roadside non-commercial publicity materials will be temporarily revoked during election periods (the removal arrangement).

Some LegCo and DC members and political parties have raised concerns over the removal arrangement. They consider that the arrangement would seriously affect the normal work of the incumbent LegCo and DC members. The removal and subsequent reinstatement of the publicity materials would also lead to a waste of resources.

"In view of the concerns raised, we see a need to review the existing arrangement," a Government spokesman said today (March 26).

In reviewing the removal arrangement, the Government ensures that the following policy objectives are upheld:

- (a) no candidate should have any unfair advantage;
- (b) there should be a clear message of the election during the by-election period;
- (c) there should be adequate designated display spots for publicity by the candidates;
- (d) the public display spots, as a limited public resource, should be utilised reasonably and in line with public interest; and
- (e) interruptions and nuisance to normal service to the public should be minimised as far as possible.

The Government recognises the incumbent members' need to continue their normal service to the public and to communicate with them during the by-election period. However, to safeguard the fairness of the election, it is necessary to ensure that no candidate in the by-election will have any unfair advantage over others in publicity through the display spots. The Government will continue to suspend the temporary revocation of approval for incumbent LegCo and DC members who intend to retain their allocated public display spots on the condition that such public display spots will not be used for the purpose of promoting or prejudicing the candidacy of any candidate in the by-election

(i.e. no election advertisements can be displayed at the public display spots). If a public display spot of an incumbent member is used for the purpose of promoting or prejudicing the candidacy of any candidate in the by-election, approval of that display spot will be immediately revoked until May 31, 2010. The relevant materials shall be removed without prior notice with the costs of removal to be claimed from the member concerned. Members who intend to retain the public display spots allocated to them during the by-election period have to inform the Government no later than April 1, 2010, of their intention. If members do not inform the Government of their intention, any materials remaining on the public display spots after April 7, 2010, will be removed by the Government and the costs of removal will be recovered from the members concerned.

Furthermore, to ensure the fairness of the by-election, if an incumbent DC member stands for the by-election in the LegCo geographical constituency in which the DC is situated, the approval in respect of all the public display spots allocated in his/her capacity as an incumbent DC member shall be immediately revoked upon his/her submission of the nomination form to the Returning Officer until May 31, 2010. All publicity materials at such public display spots must be cleared within two days from the date of submission of such nomination form or by April 8, 2010, whichever date is earlier. Failing this, such materials will be removed by the Government without prior notice with costs of removal to be recovered from the member concerned.

Ends/Friday, March 26, 2010
Issued at HKT 19:29

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**Relevant documents on display of
roadside publicity materials during by-elections**

Committee	Date of meeting	Paper
Legislative Council	22 November 2006	Official Record of Proceedings Pages 63 - 66 (Written question raised by Hon LAU Chin-shek)
Panel on Constitutional Affairs	19 March 2010 (Item III)	Agenda Minutes LC Paper No. CB(2)1187/09-10(01)

Council Business Division 2
Legislative Council Secretariat
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