

政府總部
運輸及房屋局

運輸科
香港添馬添美道 2 號
政府總部東翼



Transport and
Housing Bureau
Government Secretariat
Transport Branch
East Wing, Central Government Offices,
2 Tim Mei Avenue,
Tamar, Hong Kong

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電話 Tel. No.: 3509 8156
傳真 Fax No.: 2104 7274

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Panel on Transport
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong
(Attn: Ms Doris LO)

Dear Ms LO,

**Motion on “Taxi Fare Increase Applications”
passed by the Panel on Transport at the meeting on 16 December 2016**

Thank you for your letter of 20 December 2016. At the meeting on 16 December 2016, the Panel on Transport passed the following motion on “Taxi Fare Increase Applications” –

“That given that the taxi trade has made fare increase applications, but the public has strong views about taxi services, for example, the number of complaints about taxi drivers’ refusal of hire, overcharging or poor attitude has increased significantly, and the complaints are to no avail as the different accounts of the incidents given by passengers and drivers render it difficult to establish evidence; the installation of a close-circuit television (“CCTV”) system in 10 taxis by the Association of Taxi Industry Development in September this year has received a positive response from the public at large and the Office of the Privacy Commissioner for Personal Data (“the Office”) has not received any complaints relating to the installation of such system in taxis; this Panel urges the Government to consult the Office as soon as possible on the full implementation of the installation of a CCTV system in taxis capturing only the images of drivers while considering the fare increase applications, and to enact relevant legislation to ensure the quality of taxi services upon confirmation of no violation of any principles on privacy of personal data.”

The Government's response is as follows.

Taxis provide personalised point-to-point transport service and only the driver and passenger(s) are inside the compartment. If there is dispute between the passenger(s) and the driver over the service issue, there is often a lack of independent and objective evidence to determine who is right, making it difficult to follow up on the case. The community in general calls for improvement of the service quality of taxis. The Government welcomes the trade to initiate various measures to improve their service quality, but the pre-requisite is that such measures shall comply with the current legal requirements and provisions before they can be implemented.

In general, application to the Transport Department ("TD") for installing camera systems inside taxi compartments is not required if it does not affect the vehicle structure and driving safety. The Government has noted that the installation of such camera systems will involve the problem of privacy protection. Hence, the Government has enquired with the Office of the Privacy Commissioner for Personal Data ("PCPD") with regard to the trial scheme proposed by the Association for Taxi Industry Development on whether the personal data privacy cannot be fully protected. Details can be referred to the information paper submitted by this Bureau to the Panel (LC Paper CB(4)266/16-17(1)). Regarding the motion passed by the Panel on 16 December 2016 on installation of camera systems that only capture the images of drivers, we have further enquired with PCPD.

According to the information provided by PCPD in January this year, PCPD says that the Personal Data (Privacy) Ordinance ("Ordinance") at present does not prohibit any individual or organisation from installing or using CCTV, or require the consent of PCPD prior to any such installation or use. However, the Ordinance stipulates that any person (i.e. data users), who controls the collection, holding, processing or use (including disclosure and transfer) of the personal data, shall comply with the requirements under the Ordinance. PCPD is of the view that taxi compartment is a semi-private area. If the purpose of installing CCTV systems, which collect the images and the audio recording of passengers and drivers, is to recognise the identity of these persons, such act is by nature intrusive to the personal data privacy of the passengers and drivers. If the CCTV installed in the compartment only captures the images and the audio recording of the drivers, the degree of privacy intrusiveness would certainly be lower, as compared with capturing the images and audio recording of both drivers and passengers. However, even if the CCTV only captures the images of drivers, passengers' conversation in the compartment will also be recorded if the device has the audio recording function. When passengers make phone

calls in the compartment, the conversation concerned will be recorded. According to a relevant case in the United Kingdom in 2013, the arrangement of installing CCTV with audio recording function in a taxi compartment was ruled as intrusive to personal data privacy. PCPD shares the view. Hence, PCPD reminds that there should be detailed consideration and assessment on whether the installation is necessary for a lawful purpose (such as enhancing service quality or preventing crimes), whether it is proportionate to the gravity of the prevailing problems (such as overcharging), as well as balancing of the interests and safety of drivers and passengers, when implementing the trial scheme. TD has conveyed PCPD's views to the trade.

The Constitutional and Mainland Affairs Bureau, which is responsible for the policy on privacy, indicates that PCPD has published the Guidance on CCTV Surveillance and Use of Drones to provide organisations with suggestions on whether and how to properly use CCTV in order to assist individuals or organisations in complying with the requirements of the Ordinance. The Guidance is applicable to the installation of camera systems inside taxi compartments. As for the suggestion to require installation of camera systems in all taxi compartments through legislation, in view of its wide implications (including its implications on other public transport modes) and the differing views already held by the public on such installation by the taxi trade, the Government has no intention to introduce any compulsory arrangement at the present stage. We will continue to keep close communication with the trade and remind the trade to comply with the Guidance, as well as closely monitor the public views in this aspect.

Yours sincerely,



(Billy Au)

for Secretary for Transport and Housing

c.c.

The Commissioner for Transport (Attn: Mr Dannis Leung)