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10 January 2018

Hon Jeffrey Lam Kin-fung  
Chairman  
Panel on Economic Development of the Legislative Council  
Legislative Council Complex  
1 Legislative Council Road, Central  
Hong Kong

(Attn: Ms Shirley Chan)

Dear Ms Chan,

**Panel on Economic Development  
Follow-up to Meeting on 12 December 2017**

Thank you for your letter dated 13 December 2017. As requested, we would like to provide the following information about the regulation of unmanned aircraft systems (UAS) from the perspective of privacy protection with reference to the Personal Data (Privacy) Ordinance (the Ordinance) (Cap. 486).

Privacy-related matters are under the purview of the Privacy Commissioner for Personal Data (PCPD), which oversees the enforcement of the Ordinance. In response to the said letter, we have consulted the PCPD and the response of which is appended at **Annex**.

As reported at the meeting of the Panel on Economic Development held on 12 December 2017, the Civil Aviation Department (CAD) would conduct a public consultation on the proposed recommended way forward on the regulation of UAS in Hong Kong. The CAD would further engage relevant bureaux/departments and parties, including the PCPD, to discuss the way forward and implementation of the recommendations of the consultant, with the objective to strike a reasonable balance between facilitating the use of UAS by the public and protecting public safety.

Should you have any question on the above, please feel free to contact Ms Yamani Chan, Acting Chief Operations Officer of Civil Aviation Department, by phone at 2910 6696 or by email at [ywychan@cad.gov.hk](mailto:ywychan@cad.gov.hk).

Yours sincerely,

A handwritten signature in black ink, consisting of a stylized 'J' and 'C' that loops together.

( Ms Joyce Chan )

for Secretary for Transport and Housing

c.c. DGCA (Attn: Ms Yamani Chan)

**Annex****Reply of the Privacy Commissioner for Personal Data, Hong Kong concerning privacy matter related to the use of UAS in Hong Kong**

As stated in a media statement by the Privacy Commissioner for Personal Data, Hong Kong (PCPD) on 4 December 2017 ([https://www.pcpd.org.hk/english/news\\_events/media\\_statements/press\\_20171204.html](https://www.pcpd.org.hk/english/news_events/media_statements/press_20171204.html)), currently the Personal Data (Privacy) Ordinance (the Ordinance) (Cap. 486) protects privacy rights of an individual in relation to personal data. It relates to “information privacy”, and the said data must satisfy the definition of “Personal Data” under the Ordinance<sup>1</sup>. Generally speaking, categories of privacy rights also include “territorial privacy”, “privacy of the person” and “communications and surveillance privacy”.

The Ordinance is a principle-based and technology-neutral legislation. While the technology and application of UAS (including drones), have been evolving, the use of the relevant devices must comply with the requirements of the Ordinance as well as the Data Protection Principles if collection of personal data is involved. Under section 2(1) of the Ordinance, personal data means any data- (a) relating directly or indirectly to a living individual; (b) from which it is practicable for the identity of the individual to be directly or indirectly ascertained; and (c) in a form in which access to or processing of the data is practicable.

The PCPD has issued the “Guidance on CCTV Surveillance and Use of Drones”, offering advice on the use of drones from the perspective of protection of personal data privacy, including:

- carefully plan the flight path to avoid flying close to other people or their properties;
- pre-define what, where and when to conduct recording to avoid collection of unnecessary personal data; and
- inform affected people clearly of the operation of the drones, such as making prior public announcement, using flashing lights to indicate that recording is taking place, putting corporate logo and contact details on the drone, etc.

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<sup>1</sup> Section 2(1) of the Ordinance: personal data means any data- (a) relating directly or indirectly to a living individual; (b) from which it is practicable for the identity of the individual to be directly or indirectly ascertained; and (c) in a form in which access to or processing of the data is practicable.

In addition, the Ordinance and regulation should not hinder innovation and technology as well as economic development. However if the filming place is a private premises, such as the home of an individual, such practice in nature may possibly be intruding the privacy of that affected person.

The PCPD is actively studying the international practices and will submit recommendations on how to regulate UAS from the perspective of protection of personal data privacy to the government. In the meantime, should a member of the public find his/her privacy rights relating to personal data are being abused due to the use of UAS, he/she may lodge a complaint with the PCPD.