

(Translation)

**Motion on  
“Keeping up with technological development and  
enhancing the protection of people’s privacy”  
moved by Dr Hon Priscilla LEUNG  
at the Council meeting of 22 May 2019**

**Motion as amended by Dr Hon Elizabeth QUAT**

That Hong Kong’s existing legislation on the protection of personal privacy is incomprehensive, particularly there is no legislation to impose targeted regulation on Internet storage of personal privacy and data, and there is also no dedicated legislation for protecting children’s Internet privacy, thus failing to deter lawbreakers from collecting, through Internet, children’s privacy and data and invading their privacy, and even committing indecent conduct through such acts; serious incidents relating to large-scale leakage of personal privacy and data have occurred many times in Hong Kong, for example the uncovering of the resale of the data of 2.4 million customers by the Octopus Card Limited to other companies for marketing use in 2009, the Registration and Electoral Office’s loss of a notebook computer containing the personal data of 3.78 million Geographical Constituencies electors across the territory in 2017, and the leakage of the personal data of 9.4 million passengers by the Cathay Pacific Airways in 2018; the Personal Data (Privacy) Ordinance came into force in 1996 and the Government only amended the Ordinance once in 2012, and given that the rapid technological development of the Internet, social media, big data, artificial intelligence, etc. has created privacy risks and that the General Data Protection Regulation (‘GDPR’) of the European Union (‘EU’) has come into force, the Personal Data (Privacy) Ordinance has appeared to be even more lagging behind and its personal data privacy protection is apparently inadequate; in this connection, this Council urges the Government to keep up with technological development and comprehensively review the policy on personal data privacy protection, so as to enhance the protection of people’s privacy; the relevant proposals include:

- (1) by drawing reference from the various measures and laws on the protection of Internet privacy of other jurisdictions, including the safeguards and requirements on restricting information storage in Internet and the notification regime for incidents, enacting legislation on the protection of Internet privacy applicable to Hong Kong ;

- (2) by drawing reference from the laws of other jurisdictions, enacting dedicated legislation for protecting children's Internet privacy, including formulating requirements to restrict network operators' excessive collection and storage of children's privacy and data and prevent the invasion of children's privacy, so as to effectively protect children's personal privacy;
- (3) by drawing reference from EU's GDPR and the relevant laws of other jurisdictions, amending the Personal Data (Privacy) Ordinance expeditiously and comprehensively, including requiring data users to notify the Privacy Commissioner for Personal Data ('PCPD') and data subjects of any data leakage incidents within a specified timeframe and raising the penalty of non-compliance with the enforcement notice to enhance the deterrent effect;
- (4) regarding serious incidents relating to leakage of personal privacy and data, studying the introduction of more effective mechanisms for awarding compensation, empowering PCPD to exercise administrative penalties (such as fines), etc., so as to protect the rights and interests of members of the public and prompt for greater protection of personal data by data users;
- (5) focusing on some enterprises' requirements for clients to provide non-service related personal data before using their services, conducting a review of the existing scope of permissible data collection by data users, including defining the meaning of sensitive personal data, and setting restrictions on the collection and storage of sensitive data, so as to enhance the protection of the people's personal data;
- (6) requiring all government departments and public and private organizations to review their policies on processing personal data and security precautions, so as to avoid the recurrence of infringement of people's personal data privacy; and
- (7) enhancing public promotion to raise the understanding and awareness of the people as well as of public and private organizations on protecting and respecting personal data privacy.