

私隱專員簡報

Privacy Commissioner's Overview

香港是亞洲首個立法並設有獨立私隱專員來監管公私營機構的地區。法例於1996年生效，私隱專員其中一項職能是與海外負責執行類似職能及同樣地關注個人資料私隱的人士進行聯絡及合作。十二年下來，資料保障機構在國際間的聯繫顯得越益重要。

在世界各地，有些地方已經通過或正積極考慮制定新的資料私隱法例。而一些法律先進的國家則正進行重大的法例改革。因此，要訂定國際的資料私隱標準，建立及維繫環球網絡是不可或缺的。

除了與海外資料保障機構保持密切聯繫，我亦積極參與了以下兩個國際性及區域性的私隱組織。

「國際資料保障及私隱專員研討會」是唯一的國際論壇，讓資料保障及私隱專員每年會面及討論共同關注的保障資料議題。2007年，香港有幸獲委任為資格審查委員會的三個成員之一（其餘兩者為法國及荷蘭），負責處理會籍申請及向國際研討會作出建議。此外，香港一直積極參與鞏固會議的程序及組織安排，以加強成員之間日後的合作。

亞太區私隱機構是一個具凝聚力的團體，成員來自新西蘭、澳洲（包括新南威爾斯、維多利亞省及北領地）、香港、加拿大、加拿大卑斯省及南韓的資料保障機構。這個團體的成員數目及名望正不斷提高。在2006年11月，香港曾主辦第二十六屆亞太區私隱機構會議，不久又會

Hong Kong was the first in Asia to legislate and to establish an independent privacy commissioner for personal data covering both the private and the public sectors. The law which came into operation in 1996 required the Privacy Commissioner, as part of his functions and responsibilities, to liaise and co-operate with other persons outside Hong Kong who perform similar functions in matters of mutual interest concerning the privacy of individuals in relation to personal data. Twelve years have passed and it is quite obvious that an international network of data protection authorities is increasingly more relevant today.

Around the world, new data privacy laws are either passed or actively considered. In many advanced jurisdictions major reforms are in progress. Building and maintaining a global network is therefore essential for a universal data privacy standard to be gauged.

In addition to keeping in constant touch with overseas data protection authorities, I am committed to taking an active part in the following two organizations, one global and the other regional, in their membership and aspirations.

The International Conference of Data Protection and Privacy Commissioners (ICDPPC) is the only international forum for data protection and privacy commissioners to meet annually to discuss a wide range of data protection issues of mutual concerns. Hong Kong was honoured in 2007 to be appointed as one of the three members (together with France and the Netherlands) which made up the Credential Committee charged with handling applications for membership and making recommendations to the International Conference. Hong Kong had also been active in a movement aiming to consolidate the procedural and organizational arrangements for the future co-operation between members of that august body.

The Asia Pacific Privacy Authorities (APPA) is a cohesive body drawing together the data protection authorities in New Zealand and Australia (including New South Wales, Victoria and the Northern Territories), Hong Kong, Canada, British Columbia of Canada and South Korea. It continued to grow in membership and stature. Hong Kong played host to the 26th Meeting of APPA in November 2006 and will do so again before long. During the year, Hong Kong gave its full support

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Discussions with privacy commissioners around the world had also provided us with a far greater insight than if we had to work in isolation on divers matters such as breach notifications, privacy issues with biometrics and data user registration. ”



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Mr. Roderick B. Woo, JP
個人資料私隱專員
Privacy Commissioner for Personal Data

再次肩負重任。在過去一年，香港全力支持亞太區私隱機構的「私隱關注運動」，協助推廣區內的私隱意識。

透過積極參與這兩個組織，香港在區內及國際上的私隱保障機構之中，已被視為可敬負責的成員。我們在彼此分享專長及經驗的同時，亦互相借鏡。其中一個例子是：專員的內部工作小組於2007年12月提交了全面的建議，要求對《個人資料(私隱)條例》作出重大修訂。我們沒有等待香港本身的法律改革委員會而自行展開這工作，期間我們得到負責私隱法例改革的人士的協助，當中包括來自澳洲、新西蘭、英國、加拿大及其他地區的人士。

舉例來說，公署向香港特區政府提出的其中一項建議，是香港應考慮訂立新罪行：如任何人在沒有資料使用者的同意下，蓄意取得或披露資料使用者持有或洩漏的個人資料，或出售如此取得的個人資料，屬於犯罪。作出此項建議是鑑於香港出現多宗嚴重不當使用網上洩漏的個人資料的情況，和已經令其他司法區產生很多問題的身份盜用情況。我們在作出建議時，參考了英國的經驗。英國的私隱法例中有類似的條文，在過去七年行之有效。與世界各地的私隱專員討論各項私隱議題，例如違規通知、生物辨識科技的私隱問題、資料使用者登記冊等，讓我們體會到精闢的見解；這遠比閉門埋首苦幹為佳。

香港是亞太區經濟合作組織(下稱「亞太經合組織」)的成員之一，工作重點包括資料保障。亞太經合組織的電子商貿督導小組負責推廣工作，提升人們對電子商貿的信任及信心。該小組之下的資料私隱分組，致力發展適合解決亞太區資料私隱問題的方法。資料私隱分組制定了保障資料私隱機制，並由亞太經合組織各部長核准。

to APPA's Privacy Awareness Week Campaign which helped promote privacy awareness throughout the region.

By positively participating in these two forums, Hong Kong had become recognized as a respectable and responsible member within the regional and the global circles of privacy protection authorities. We shared our expertise and experience with other members and at the same time learned from them. One example was the Commissioner's internal working party which submitted a comprehensive package of proposals in December 2007 seeking substantial amendments to the Personal Data (Privacy) Ordinance. Although we did not wait for Hong Kong's own Law Reform Commission to embark on this venture, my colleagues and I had been helped by those who were responsible for privacy law reforms in Australia, New Zealand, the United Kingdom, Canada and elsewhere.

By way of illustration, one of the recommendations made to the HKSAR Government was that Hong Kong should consider creating a new offence for anyone knowingly, without the consent of the data user, to obtain or disclose personal data held or leaked by a data user, or selling of personal data so obtained. This suggestion was prompted by the many serious improper uses of personal data that had been leaked on the Internet in Hong Kong as well as the theft of identities which had created many problems in other jurisdictions. In making the suggestion, we were able to draw from the experience in the U.K. whose privacy law contained a similar provision which had worked well in practice in the past seven years. Discussions with privacy commissioners around the world had also provided us with a far greater insight than if we had to work in isolation on divers matters such as breach notifications, privacy issues with biometrics and data user registration.

Data protection is also one of the key concerns of Asia-Pacific Economic Co-operation (APEC) of which Hong Kong is a member economy. APEC's Electronic Commerce Steering Group (ECSG) is responsible for promoting mechanisms to increase the trust and confidence of participants in electronic commerce. The Data Privacy Subgroup (DPS) under the ECSG works to foster the development of compatible approaches to data privacy within the APEC region. It had developed a Data Privacy Framework which had been endorsed

各部長亦核准了該分組策劃的「資料私隱路向計劃」，探究制定規管個人資料跨境移動規則的可行性，在促進電子商貿之餘，亦對顧客作出保障。此等發展代表著亞太區就資料跨境傳輸建立最基本準則邁出正面的一步。

這一年來，我繼續代表香港積極參與資料私隱分組的工作，提供專業意見，並參與「資料私隱路向計劃」。我出席了該分組的會議，以及各組別之間的電話會議。在過去一年，公署亦曾就多份草擬文件及指引給予書面意見。

在本地方面，公署在過去幾年的工作已取得成果。這可從以下兩方面得到印證。第一，社會人士經常提及個人資料私隱；第二，公署接獲的簡單查詢及投訴數字下降，而複雜的查詢及投訴數字卻比以前增加。這個趨勢可以從公署收到不少來自律師樓、政府部門及決策局的查詢反映出來。以往，他們似乎都能夠自行解決涉及私隱的問題。

過去一年，公署的工作非常忙碌。各部門同事的工作成果已詳載於本年報，我不再在此贅述。

最後，我衷心感謝公署各同事在過去一年的投入及努力，令公署成功應付各項挑戰。雖然嚴格來說他們不是公務員，但他們卻本著熱誠待人的心去服務大眾，在此我謹向他們表示讚賞。

by the APEC Ministers who also endorsed the Data Privacy Pathfinder Projects devised by DPS to probe the feasibility of setting up rules to regulate the flow of personal information across borders for protection of consumers while facilitating electronic commerce. These developments represent a positive step towards the establishment of a minimum standard for the protection of personal data applicable to cross-border data flows within the Asia Pacific region.

During the year, I continued to represent Hong Kong and actively contributed to the work of the DPS, providing expert opinions and participating in the Pathfinder Projects. I attended meetings of the DPS as well as the various inter-sessional telephone conferences. My Office had, throughout the year, provided written comments on many draft papers and guidelines.

On the domestic front, I believe the work of this Office over the years had borne fruit. This is evidenced by the fact that personal data privacy was a term frequently used in the community and that the number of enquiries and complaints of a simple nature had decreased while those that came our way were more complex and sophisticated. The trend is further reflected in the significant number of enquiries from law firms and government departments and bureaux which in the past seemed able to find all the answers to their own problems in respect of privacy issues.

The period under review had been a busy year for my Office. The work done by my colleagues in the several divisions are described in some details in this Annual Report and I shall not repeat them here.

I had been impressed by my colleagues' outstanding performance, their commitment and devotion to duty throughout the year. It was due to their collective efforts that this Office had successfully coped with the many challenges that the year had brought. They were not civil servants in the strict sense of the term but they had served the public faithfully and I wish to pay tribute to them.

吳斌

香港個人資料私隱專員

Roderick B. Woo

Privacy Commissioner for Personal Data, Hong Kong