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署理首席私隱審查主任感言

Message from Acting Chief Privacy Compliance Officer

由 廉署到私隱署，令我對執法工作，有不一樣的認識與感受。

滿以為自己有豐富的刑事執法經驗，對執行《個人資料(私隱)條例》的規定，即使未能駕輕就熟，亦可應付裕餘。

萬萬想不到，竟要花九牛二虎之力，才可把條例的要點掌握，要對條例融會貫通，相信還要邊做邊學。

歸根究底，條例的立法原意並非懲罰性，與一般刑法有別，譬如違反保障資料原則本身並不是刑事罪行，就不是每個市民都可清楚領會。

喚起公眾對私隱的關注，令我不單感覺到工作的滿足感，還感覺到工作背後那份使命感。

展望將來，衷心希望審查工作可以繼續弘揚「保護私隱，人人有份」的重要意義。

丁家倫

署理首席私隱審查主任

From ICAC to PCPD, I got different understanding and feelings about enforcement work.

Being experienced in criminal law enforcement, I thought that I could handle, even if not with ease, the enforcement of the requirements of the Personal Data (Privacy) Ordinance.

However, to my surprise, I had to strain myself to the limit before I could grasp the essentials of the Ordinance. For a thorough understanding of the Ordinance, I believe I still have a lot to learn.

Fundamentally, the legislative intent of the Ordinance was not punitive. This is different from the criminal law in general. For example, not every citizen clearly knows that contravention of the Data Protection Principles is not a criminal offence per se.

It is not only job satisfaction that drives me to raise public awareness of privacy; it is a mission.

Looking forward, I sincerely hope that my division can keep on promoting the importance of “protecting privacy is your business”.

Allen Ting

Acting Chief Privacy Compliance Officer

在二零零七至零八年度接獲的查詢 Enquiries Received 2007-2008

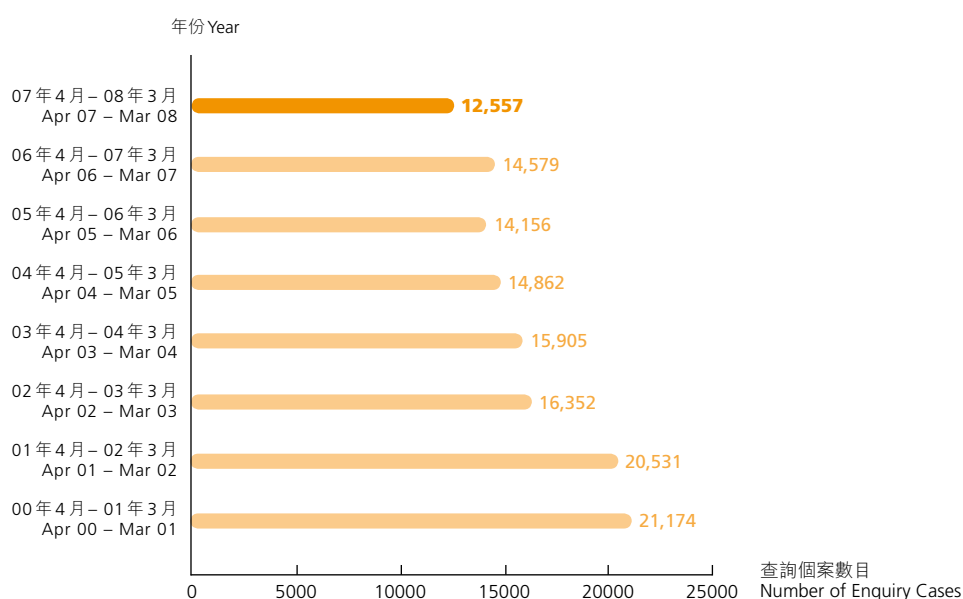
在2007-08年度，公署共處理12,557宗查詢個案(較去年下降13%)，每日平均處理49宗。

A total of 12,557 enquiry cases were handled in 2007-2008 (a 13% decrease compared with the previous year). On average, 49 enquiry cases were handled each working day.

圖表FIGURE

1

每年的查詢個案 Annual Enquiry Caseload



圖表FIGURE

2

查詢個案的性質 Nature of Enquiry Cases

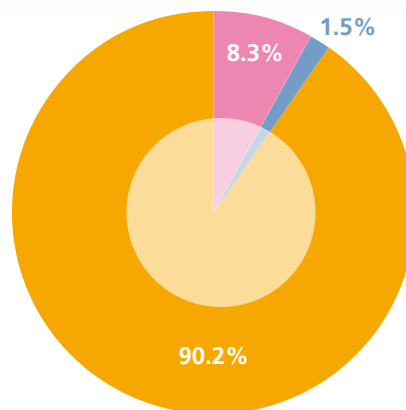
15%	人力資源管理實務守則 Code of Practice on Human Resource Management
4%	僱主監察僱員活動 Workplace Surveillance
1%	生物辨識科技 Biometrics
2%	個人信貸資料實務守則 Code of Practice on Consumer Credit Data
4%	直接促銷 Direct Marketing
4%	身分證號碼及其他身分代號實務守則 Code of Practice on the Identity Card Number and other Personal Identifiers
8%	查閱資料要求 Data Access Request
3%	追收債款 Debt Collection
2%	與互聯網有關 Internet Related
57%	其他 Others

圖表FIGURE

3

提出查詢的途徑 Means by Which Enquiries Were Made

90.2%	熱線 Hotline
8.3%	書面 Written
1.5%	親身查詢 Walk-in



大部分的查詢個案(約90%)是透過公署的查詢熱線電話(2827 2827)提出的。

The majority of the enquiry cases (about 90%) were made via the PCPD hotline at 2827 2827.

就英國資訊專員公署的私隱影響評估計劃作出的回應 Response to the Privacy Impact Assessment project for the Information Commissioner's Office, U.K.

在2007年，英國資訊專員公署就私隱影響評估的使用、實踐及效用展開一項國際性研究，對美國、新西蘭、香港、澳洲、加拿大及歐盟的法律、政策及私隱影響評估工具進行檢討。

私隱專員在向資訊專員公署提供的資料中表示，雖然私隱影響評估在香港並不屬於法定規定，但在促進條例的遵守方面，它被視為一項有效的工具，因此私隱專員認為私隱影響評估是良好的行事方式。

資訊專員公署已於2007年10月發表報告，該報告可在下述網址查閱：<http://www.ico.gov.uk>

In 2007 the Information Commissioner's Office of the United Kingdom ("ICO") commissioned an international study into the use, practice and utility of Privacy Impact Assessment ("PIA"). Reviews of legislation, policy and PIA tools were conducted for the United States, New Zealand, Hong Kong, Australia, Canada and the European Union.

In the information provided to ICO, the Commissioner viewed that though PIA is not a statutory requirement in Hong Kong, it is seen as an effective tool in promoting compliance with the requirements of the Ordinance and thus it is a good practice endorsed by the Commissioner.

The ICO report was published in October 2007. A copy of the ICO report may be accessible from <http://www.ico.gov.uk>.

循規查察行動 Compliance Checks

當發現某一機構的行事方式看來有違條例規定時，私隱專員便會展開循規查察行動。在此等情況下，私隱專員會以書面知會有關機構，指出看來與條例規定不符的事宜，並促請有關機構採取適當的糾正措施。

在大多數情況下，有關機構會主動採取即時措施，糾正涉嫌違例事項。在有些情況中，有關機構會就如何採取改善措施，以免重複涉嫌違例事項，向私隱專員尋求意見。在其他情況下，私隱專員會對涉嫌違例事項進行調查，並採取適當的跟進行動，確保有關機構遵從條例的規定（例如，向有關機構發出執行通知，指令它糾正情況）。

在年報期內，私隱專員共進行了81次循規查察行動，對資料使用者被指違反條例規定的行事方式進行循規查察行動。

大部分循規查察行動(61次)是與私營機構的行事方式有關，其餘20次則關乎政府部門及法定機構。以下是在年內進行的循規查察行動的一些例子。

A compliance check is undertaken when the Commissioner identifies a practice in an organization that appears to be inconsistent with the requirements of the Ordinance. In these circumstances, the Commissioner alerts the organization in writing, pointing out the apparent inconsistency and inviting it, where appropriate, to take remedial actions.

In many cases, the organization takes immediate action to correct the suspected breach. In some instances, advice is sought from the Commissioner on the measures that should be taken to prevent further breaches. Other times, the Commissioner would investigate the matter and take action to ensure compliance with the Ordinance. This might include issuing an enforcement notice to the organization directing it to remedy the situation, for example.

During the reporting year, the Commissioner carried out 81 compliance checks in total in relation to alleged practices of data users that might be inconsistent with the requirements of the Ordinance.

The majority of the compliance checks (61) occurred in the private sector. The remaining 20 related to government departments and statutory bodies. The following examples highlight some of the compliance checks undertaken during the year.



例子 Example

1

公眾經一個政府部門網站查閱到敏感的個人資料

Sensitive personal data were accessible by the public via the website of a government department



2007年4月1日，傳媒報導公眾可以經一個政府部門網站查閱到提出反對商標註冊的人士的敏感個人資料。事件中涉及的個人資料包括未經刪剪的護照副本。

私隱專員認為未得到某人同意而向公眾披露其個人資料實屬侵犯其私隱。單憑某一類個人資料經由網站被動地收集，並不表示該等個人資料便應該自動地刊登於互聯網上。

經初步調查後，私隱專員認為儘管該部門有法定職責將某些收集的文件放於網上供人查閱，亦不應該不受管制地任由互聯網用戶查閱有關文件所載的個人資料。

該部門完全接納私隱專員的意見，並以書面承諾會採取所有切實可行的步驟作出補救，及遵從條例的規定。2007年4月17日，私隱專員向該部門發出書面警告。

On 1 April 2007, the media reported that sensitive personal data belonging to people filing objections to trademark applications were found to be accessible by the public via the website of a government department. The personal data involved in the incident included unedited copies of passports.

The Commissioner takes the view that the disclosure of an individual's personal data to the public without the individual's consent is in itself an invasion of his/her privacy. The fact that a particular type of personal data is passively collected through a website does not mean that the personal data should automatically be published on the Internet.

After a preliminary inquiry, the Commissioner found that although the government department had a statutory duty to make certain documents collected by it available for online inspection, it should not allow uncontrolled access by Internet users to personal data contained in those documents.

The government department fully accepted the Commissioner's finding and undertook in writing that it would take all practicable steps to remedy the situation and comply with the requirements of the Ordinance. On 17 April 2007, the Commissioner issued a written warning to the government department.

例子Example

2

一個政黨要求其成員提供居民的個人資料以換取財政資助

A political party asked its members to provide personal data of residents in return for financial subsidy



本地報章報導一個政黨(下稱「該黨」)要求黨內的每名區議員向該黨提供不少於300名居民的個人資料，以換取財政資助。公署獲悉事件後進行了循規查察行動。

經初步調查後，私隱專員發覺該黨收集及處理大量個人資料，但並沒有就所持有的個人資料制定任何私隱政策或指引。根據保障資料第5原則，資料使用者必須公開其在個人資料方面的政策及實務、所持有的個人資料的種類，及個人資料是為或將會為甚麼主要目的而使用。

在回應方面，該黨以書面承諾會遵從條例的規定，制定私隱政策聲明。2007年6月20日，私隱專員向該黨發出書面警告。該黨遵從承諾書的條款，於2007年9月發出私隱政策聲明，並向私隱專員提供該聲明的副本。

A compliance check against a political party (the “Party”) commenced after local newspapers reported that the Party had asked each of its district council members to provide the Party with personal data of not less than 300 residents in return for a financial subsidy.

After a preliminary inquiry, the Commissioner found that the Party, which collects and processes large quantity of personal data, did not have any privacy policy or guidelines in relation to the personal data held by it. Under Data Protection Principle 5, data users are required to provide for openness about their policies and practices in relation to personal data, the kind of personal data they hold and the main purposes for which personal data are or are to be used.

In response to the inquiry, the Party undertook in writing that it would comply with the requirements of the Ordinance by formulating a privacy policy statement. On 20 June 2007, the Commissioner issued a written warning to the Party. In compliance with the terms of the undertaking, the Party issued a privacy policy statement in September 2007 and provided the Commissioner with a copy of the same.

例子Example

3

一間大學經互聯網上洩漏個人資料

A university leaked personal data via the Internet



2007年7月31日，傳媒報導共68名報讀一間大學的課程的申請人個人資料經網上洩漏。被洩漏資料包括申請人的姓名、地址、身份證號碼及工作／教育背景。

公署對該大學進行了循規查察行動。結果顯示，該大學一名職員「不慎地」將該68名申請人的個人資料移轉至一個公眾伺服器，導致公眾可以在互聯網上查閱該等資料。為了作出補救，該大學立即從互聯網上移除該等資料，並以書面承諾會採取所有切實可行的步驟，確保類似事件不會繼續或再發生。

私隱專員考慮到資料的敏感性，認為該大學沒有採取所有切實可行的步驟，以保障其持有的個人資料免受未經准許的或意外的查閱，因此於2007年10月29日向該大學發出書面警告。

This case concerns an Internet leak of personal data reported by the mass media on 31 July 2007 in relation to 68 individuals who had applied for a study program offered by a university. The leaked data included the applicants' name, address, identity card number and employment/education background.

A compliance check was carried out against the university. The check revealed that the personal data of the 68 individuals were "inadvertently" transferred to a public server by a staff member of the university, resulting in the data being accessible by the public on the Internet. To remedy the situation, the university took immediate action to remove the data from the Internet and undertook in writing that it would take all practicable steps to ensure that similar incident would not continue or recur.

Taking into account the sensitivity of the data, the Commissioner considers that the university has failed to take all practicable steps to protect the security of the personal data held by it against unauthorized or accidental access and administered a written warning on the university on 29 October 2007.

核對程序 Matching Procedures

在年報期內，私隱專員共收到15宗新的核對程序申請，以及9宗繼續進行核對程序的重新申請。

所有15宗新申請均來自公營機構。經審閱後，其中1宗不屬條例釋義所指的核對程序及另外1宗其後撤回申請。私隱專員根據條例賦予的權力，在有條件的情況下批准10宗申請。截至2008年3月31日，餘下3宗新申請正由私隱專員考慮。9宗繼續進行核對程序的重新申請中，其中1宗不予續批，1宗在處理中，其餘7宗均獲續批。

During the reporting year, the Commissioner received 15 new applications for approval to carry out matching procedures and 9 requests for re-approval of matching procedures undertaken in previous years.

All 15 new applications were requested by public sector organizations. Upon examination, 1 was found not to be a matching procedure under the Ordinance, and 1 was withdrawn. 10 applications were approved subject to conditions imposed by the Commissioner under the Ordinance. As at 31 March 2008, the remaining 3 new applications are under the consideration of the Commissioner. Of the 9 requests for re-approval, 1 was refused, and 1 was being processed. The remaining 7 were approved.

提出要求者 Requesting Parties	獲准的有關核對程序 Related Matching Procedures that were Approved
房屋協會 Hong Kong Housing Society	公署同意房屋協會進行核對程序，將住宅發售計劃申請人的個人資料，與房屋委員會公共屋邨租戶及業主的個人資料互相比較，以防止有人申領雙重房屋福利。 Consent was given to Hong Kong Housing Society to carry out a matching procedure to prevent double housing benefits by comparing personal data collected by Hong Kong Housing Society from applicants for the Flat For Sale Scheme with personal data collected by Hong Kong Housing Authority from tenants of public rental housing and owners of subsidized housing.
社會福利署 Social Welfare Department	公署同意社會福利署進行一次性的核對程序，將社會福利署從綜合社會保障援助／社會保障援助受益人所收集的個人資料與入境事務處持有的資料庫比較，以偵查因離境時間超過規定而可能失去申領有關資助資格的受益人。 Consent was given to Social Welfare Department to carry out a one-off matching procedure to identify Comprehensive Social Security Assistance ("CSSA") and Social Security Allowance ("SSA") recipients who have long absences from Hong Kong and may become ineligible to receive CSSA/SSA payments by comparing personal data collected by Social Welfare Department from the recipients of CSSA/SSA with personal data held in the database of Immigration Department.
學生資助辦事處 Student Financial Assistance Agency	公署同意學生資助辦事處進行核對程序，將學生資助辦事處從政府大學預科生活津貼及葛量洪生活津貼申請人所收集的個人資料與社會福利署從綜合社會保障援助受益人所收集的個人資料進行比較，以防止有人申領雙重資助。 Consent was given to Student Financial Assistance Agency to carry out a matching procedure to prevent double subsidies by comparing personal data collected by Student Financial Assistance Agency from applicants of Government Matriculation Maintenance Grants and Grantham Maintenance Grants with personal data collected by the Social Welfare Department from the recipients of the Comprehensive Social Security Assistance.
教育局 Education Bureau	公署同意教育局進行核對程序，將教育局從學前教育學券計劃申請人所收集的個人資料與社會福利署從綜合社會保障援助／幼兒中心繳費資助計劃受益人所收集得的個人資料進行比較，以防止有人申領雙重資助。 Consent was given to Education Bureau to carry out a matching procedure to prevent double subsidies by comparing personal data collected by Education Bureau from applicants of Pre-primary Education Voucher Scheme with personal data collected by the Social Welfare Department from the recipients of the Comprehensive Social Security Assistance/Child Care Centre Fee Assistance Scheme.

提出要求者 Requesting Parties	獲准的有關核對程序 Related Matching Procedures that were Approved
社會福利署 Social Welfare Department	<p>公署同意社會福利署進行核對程序，將社會福利署從綜合社會保障援助受益人所收集的個人資料與勞工處從交通費支援計劃受益人所收集的個人資料進行比較，以防止有人申領雙重資助。</p> <p>Consent was given to Social Welfare Department to carry out a matching procedure to prevent double subsidies by comparing personal data collected by Social Welfare Department from the recipients of the Comprehensive Social Security Assistance with personal data collected by the Labour Department from recipients of transport subsidies under the Transport Support Scheme.</p>
消防處 Fire Services Department	<p>公署同意消防處進行核對程序，將消防處所持有的部門宿舍申請人的個人資料，與房屋署公共屋邨租戶及業主的個人資料作出比較，以偵查雙重房屋福利。</p> <p>Consent was given to Fire Services Department to carry out a matching procedure to detect double housing benefits by comparing personal data of departmental quarters applicants held by Fire Services Department with personal data of public housing estate tenants and owners maintained by the Housing Department.</p>
民政事務總署 Home Affairs Department	<p>公署同意民政事務總署進行核對程序，將民政事務總署從村代表選舉所收集的個人資料與房屋署公共屋邨租戶及業主的個人資料作出比較，以確保村代表選舉的選民登記冊資料準確。</p> <p>Consent was given to Home Affairs Department to carry out a matching procedure to ensure the accuracy of the voter registers for the Village Representative Election (“VRE”) by comparing personal data collected by Home Affairs Department for the purpose of VRE with personal data collected by the Housing Department from tenants of public rental housing and owners of subsidized housing.</p>
民政事務總署 Home Affairs Department	<p>公署同意民政事務總署進行核對程序，將民政事務總署從村代表選舉所收集的個人資料與入境事務處的人口登記資料庫內的個人資料互相比較，以確保村代表選舉的選民登記冊資料準確。</p> <p>Consent was given to Home Affairs Department to carry out a matching procedure to ensure the accuracy of the voter registers for the Village Representative Election (“VRE”) by comparing personal data collected by Home Affairs Department for the purpose of VRE with personal data maintained by the Registration of Persons database of the Immigration Department.</p>
房屋協會 Hong Kong Housing Society	<p>公署同意房屋協會進行核對程序，將長者安居樂計劃申請人的個人資料，與房屋委員會公共屋邨租戶及業主的個人資料互相比較，以防止有人申領雙重房屋福利。</p> <p>Consent was given to Hong Kong Housing Society to carry out a matching procedure to prevent double housing benefits by comparing personal data collected by Hong Kong Housing Society from applicants for the Senior Citizen Residences Scheme with personal data collected by Hong Kong Housing Authority from tenants of public rental housing and owners of subsidized housing.</p>
選舉事務處 Registration and Electoral Office	<p>公署同意選舉事務處進行核對程序，將選舉事務處從區議會選舉、立法會選舉及相關補選所收集的個人資料與民政事務總署從村代表選舉所收集的個人資料進行比較，以找出因遷離原有選區而不符合資格在該區投票的選民。</p> <p>Consent was given to the Registration and Electoral Office to carry out a matching procedure to identify electors of the geographical constituencies who have moved out and may become ineligible to vote in their original constituencies by comparing personal data collected for the purpose of District Council Elections and Legislative Council Elections and their by-elections with personal data collected by Home Affairs Department for the purpose of Village Representative Elections.</p>

新核對程序表格

2007年6月1日，公署在憲報刊登根據條例第31(1)條提出核對程序要求的新表格。該表格是私隱專員依據條例第67條所指明的。資料使用者在向私隱專員提出新的核對程序申請或繼續進行核對程序的重新申請時，必須填妥該表格。

諮詢文件 — 個人信貸資料實務守則的修訂

私隱專員於2007年5月22日發出諮詢文件，徵詢公眾對個人信貸資料實務守則（下稱「守則」）修訂建議的意見。

守則於1998年11月27日生效，規管有關個人信貸交易記錄資料的使用，以確保信貸資料機構及信貸提供者在處理個人資料時是公平及符合條例的規定。

守則的修訂建議大致可分為兩類：

- (a) 有關保留因破產令而註銷的帳戶資料的修訂；及
- (b) 輕微的技術性修訂。

有關修訂守則的公開諮詢期已經結束，公署現正對意見書進行檢討。私隱專員會決定是否根據條例第12條批准修訂建議。守則如有任何修訂，將於憲報公布。

New Matching Procedure Form

On 1 June 2007, a new form for making a matching procedure request under section 31(1) of the Ordinance was published in the Gazette for public notice. The new form is specified by the Commissioner pursuant to section 67 of the Ordinance. Data users are required to complete the new form when making a new or renewal request for the Commissioner's consent to the carrying out of a matching procedure.

Consultation Paper – Amendments to Code of Practice on Consumer Credit Data

The Commissioner issued a consultation paper on 22 May 2007 to seek the public views on his proposal to amend the Code of Practice on Consumer Credit Data (the "Code").

The Code first came into operation on 27 November 1998. It regulates the use of recorded information relating to an individual's credit transactions and aims to ensure that the handling of personal data by credit reference agencies and credit providers is fair and in line with the requirements of the Ordinance.

The proposed amendments to the Code may be divided into two categories:-

- (a) amendments relating to the retention of data in relation to accounts which have been written off due to bankruptcy orders being made; and
- (b) technical minor amendments.

The public consultation period on the amendments to the Code has ended and the responses are under review. The Commissioner will decide whether the proposed revision should be approved under section 12 of the Ordinance. Any revision of the Code will be notified in the Gazette.