

A Report on the Privacy Compliance Check Exercise on Hong Kong-based Web Sites

The Office of the Privacy Commissioner for Personal Data ("the PCO") has recently completed a compliance check exercise on 270 Hong Kong-based web sites to ensure that they have implemented measures to comply with the requirements of the Personal Data (Privacy) Ordinance ("the Ordinance"). The web sites in question were found in a sample survey conducted last year to have failed to implement compliance measures. 34 of the 270 sites were either found to be no longer in existence or had ceased using any online data collection forms. 220 (93%) of the remaining 236 sites having an online personal data collection form have displayed a personal information collection statement ("PICS") to inform visitors of their purposes of collection of personal data (32% was found in a previous sample survey of 339 sites). It was also found that 25% of the sites which have personal data collection forms have also posted their privacy policy statements ("PPS") online to inform visitors about their personal data protection practices (6% was found in the previous sample survey).

Background

2. In the period July to October 1998, the PCO conducted a sample survey of web sites operated by Hong Kong based organizations. The survey aimed to ascertain how well Hong Kong web sites were doing in complying with standards of good practice in general and the Ordinance in particular relating to the collection of personal data by these web sites.

3. In the sample survey, the PCO visited 531 HK-based web sites. For those web sites that collect personal data online, the PCO examined whether they have a practice of displaying a PICS or a Privacy Policy Statement PPS to notify individuals visiting the sites on certain matters that are required by the Ordinance. Such matters include, among others, the requirement of the site to inform the individuals concerned the purpose for which their data are to be used and to make available to the individuals its privacy policies and practices in relation to personal data.

4. Of the 531 web sites visited, 339 sites provided online data collections forms to collect personal data but only 108 forms (32%) had PICS notifying individuals of the purposes of collection. Of the 339 web sites that had online data collection forms, only 21 sites (6%) displayed an online PPS.

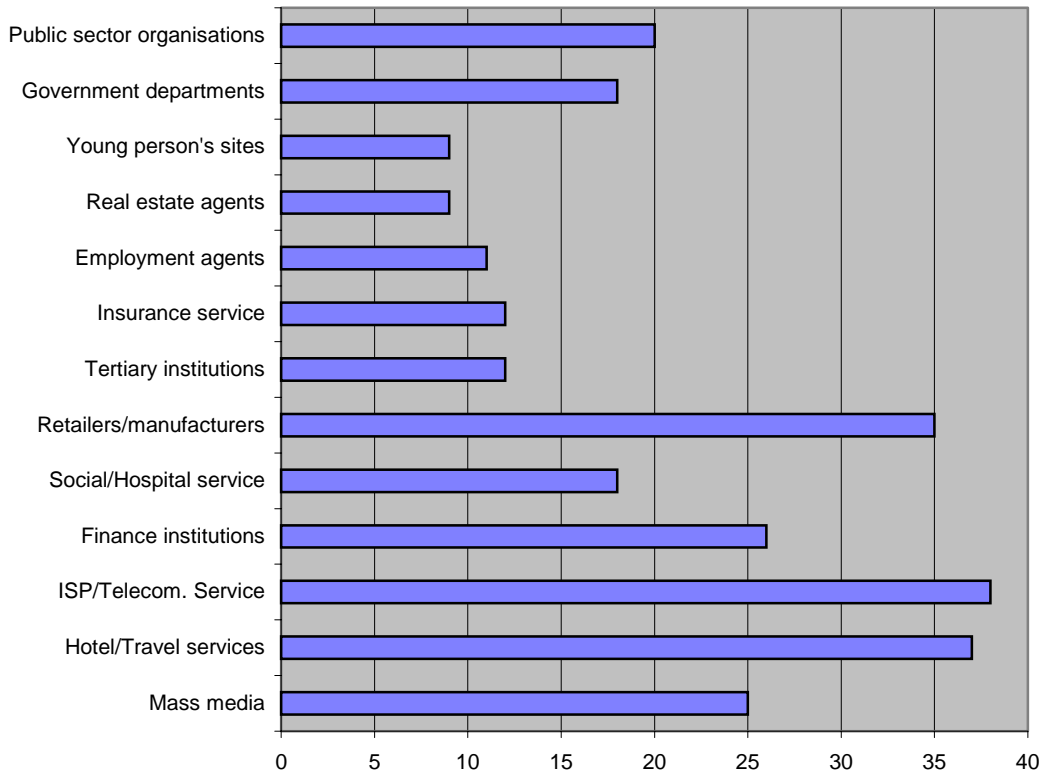
5. To give practical guidance to these web site operators, the PCO had prepared a guidance booklet "*Preparing online Personal Information collection Statement and Privacy Policy Statement*". Furthermore, the PCO had successfully sent advisory letters to 270 sites reminding them of the requirements of the Ordinance and provided them with the guidance booklet to assist them in preparing for compliance.

6. Since April 1999, the PCO started a compliance check exercise to re-visit these 270 web sites. The compliance check exercise was a follow up action to the previous sample survey to ascertain the compliance measures taken by these sites in relation to online privacy protection.

7. The exercise was completed in mid November 1999 and the following outlines the progress these 270 sites have made over the period and the actions taken by the PCO in respect of those non-compliant sites.

Types of industry

8. The 270 sites that were subject to the compliance check exercise covered a wide variety of industries. Their distribution is as follows



9. There are also different types of online data collection forms used by the sites. All of them require the online submission of personal data of the individual visiting the sites. These online forms are found on web pages where personal data are requested in,

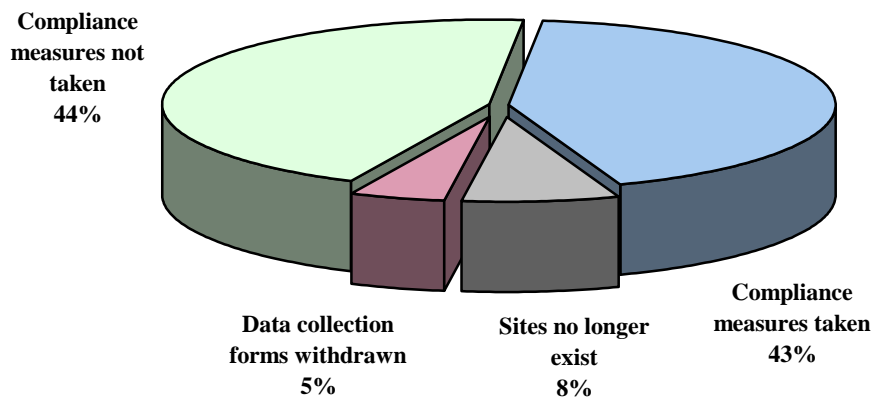
for example, service subscription, recruitment application, job seekers advertisement, purchase order, membership registration, hotel reservation; and enquiry and feedback.

Findings

10. On our re-visit of the 270 sites, the PCO found that 149 of them (56%) had taken compliance actions upon our advice to remind them of the requirements of the Ordinance. Of these 149 sites, 13 sites had ceased using any online data collection forms and 21 sites no longer exist at the time of our re-visit. 61 of the 149 sites had taken actions to display both an online PICS and PPS in respect of their online data collection practice. The remaining 54 sites had not made available an online PPS, but nevertheless, had included the requirement of the online PICS in relation to the online data collection forms they use. To these 54 sites, the PCO had further encouraged them to make available the online PPS as a good business practice to assure visitors of their commitment to privacy protection and to enhance customers' confidence in dealings with them.

11. Of the 270 sites re-visited, 121 sites (44%) had taken no compliance action in respect of their non-compliance to meet the requirements of the Ordinance.

12. The following chart gives a summary of the findings:



Enforcement actions taken

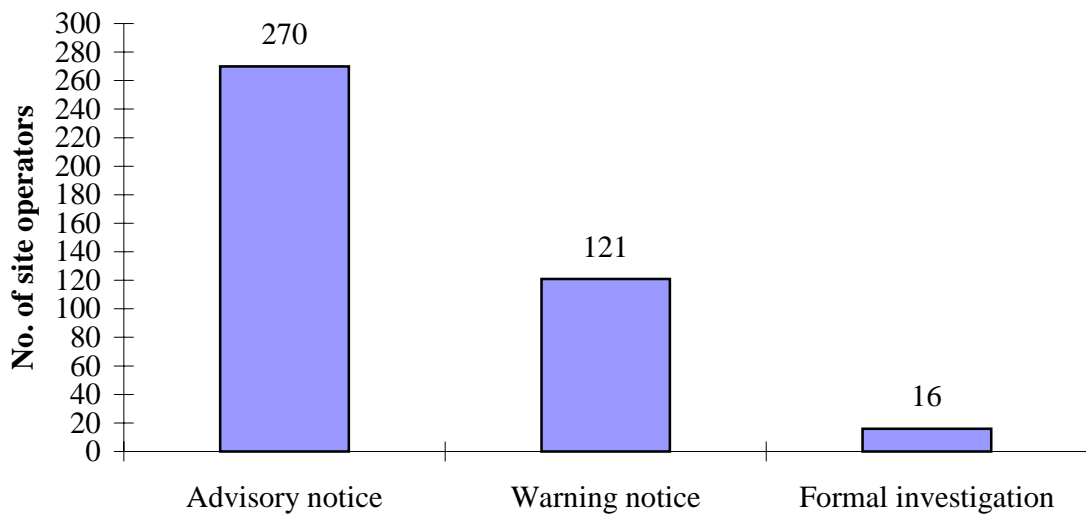
13. Of these 121 web sites, the PCO sent warning notices to the site operators requiring their immediate attention to the matters. They were also required to undertake in writing their compliance actions that were to be taken and to submit documentary proof in respect of such actions taken.

14. Upon warning by the PCO, 92 of the sites responded by taking immediate remedial actions to comply and 13 had undertaken to implement compliance measures.

Further checks had been made by PCO to confirm their compliance.

15. Of the remaining 16 sites that have failed to respond to our warning, the PCO had commenced formal investigation on them. These investigations are still in progress. Our investigations may result in the issue of enforcement notices being imposed on these site operators to direct them to take specific actions to comply with the requirements of the Ordinance.

16. The following chart summarizes the actions taken by the PCO.



Conclusion

17. The PCO recognizes that the sample survey and the compliance checks cover only a very small portion of the web population. The compliance figures obtained might not be representative. Nevertheless, it indicated that site operators are taking one small stride forward in protecting consumers' privacy online. As data collection intensifies with the rapid development of e-commerce over the Internet, much effort has yet to be made to enhance consumer e-commerce confidence. In this respect, it is the intention of the PCO to promote good business practices and compliance measures by updating its current guidance materials on Internet surfing to include further guidance in this area.