

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 22 January 2014

The Council met at Eleven o'clock

MEMBERS PRESENT:

THE PRESIDENT

THE HONOURABLE JASPER TSANG YOK-SING, G.B.S., J.P.

THE HONOURABLE ALBERT HO CHUN-YAN

THE HONOURABLE LEE CHEUK-YAN

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHAN KAM-LAM, S.B.S., J.P.

THE HONOURABLE LEUNG YIU-CHUNG

DR THE HONOURABLE LAU WONG-FAT, G.B.M., G.B.S., J.P.

THE HONOURABLE EMILY LAU WAI-HING, J.P.

THE HONOURABLE TAM YIU-CHUNG, G.B.S., J.P.

THE HONOURABLE ABRAHAM SHEK LAI-HIM, G.B.S., J.P.

THE HONOURABLE TOMMY CHEUNG YU-YAN, S.B.S., J.P.

THE HONOURABLE FREDERICK FUNG KIN-KEE, S.B.S., J.P.

THE HONOURABLE VINCENT FANG KANG, S.B.S., J.P.

THE HONOURABLE WONG KWOK-HING, B.B.S., M.H.

PROF THE HONOURABLE JOSEPH LEE KOK-LONG, S.B.S., J.P., Ph.D.,
R.N.

THE HONOURABLE JEFFREY LAM KIN-FUNG, G.B.S., J.P.

THE HONOURABLE ANDREW LEUNG KWAN-YUEN, G.B.S., J.P.

THE HONOURABLE WONG TING-KWONG, S.B.S., J.P.

THE HONOURABLE RONNY TONG KA-WAH, S.C.

THE HONOURABLE CYD HO SAU-LAN

THE HONOURABLE STARRY LEE WAI-KING, J.P.

DR THE HONOURABLE LAM TAI-FAI, S.B.S., J.P.

THE HONOURABLE CHAN HAK-KAN, J.P.

THE HONOURABLE CHAN KIN-POR, B.B.S., J.P.

DR THE HONOURABLE PRISCILLA LEUNG MEI-FUN, S.B.S., J.P.

DR THE HONOURABLE LEUNG KA-LAU

THE HONOURABLE CHEUNG KWOK-CHE

THE HONOURABLE WONG KWOK-KIN, B.B.S.

THE HONOURABLE IP KWOK-HIM, G.B.S., J.P.

THE HONOURABLE MRS REGINA IP LAU SUK-YEE, G.B.S., J.P.

THE HONOURABLE PAUL TSE WAI-CHUN, J.P.

THE HONOURABLE ALAN LEONG KAH-KIT, S.C.

THE HONOURABLE LEUNG KWOK-HUNG

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE WONG YUK-MAN

THE HONOURABLE CLAUDIA MO

THE HONOURABLE MICHAEL TIEN PUK-SUN, B.B.S., J.P.

THE HONOURABLE JAMES TIEN PEI-CHUN, G.B.S., J.P.

THE HONOURABLE NG LEUNG-SING, S.B.S., J.P.

THE HONOURABLE STEVEN HO CHUN-YIN

THE HONOURABLE FRANKIE YICK CHI-MING

THE HONOURABLE WU CHI-WAI, M.H.

THE HONOURABLE YIU SI-WING

THE HONOURABLE GARY FAN KWOK-WAI

THE HONOURABLE MA FUNG-KWOK, S.B.S., J.P.

THE HONOURABLE CHARLES PETER MOK

THE HONOURABLE CHAN CHI-CHUEN

THE HONOURABLE CHAN HAN-PAN

DR THE HONOURABLE KENNETH CHAN KA-LOK

THE HONOURABLE CHAN YUEN-HAN, S.B.S., J.P.

THE HONOURABLE LEUNG CHE-CHEUNG, B.B.S., M.H., J.P.

THE HONOURABLE KENNETH LEUNG

THE HONOURABLE ALICE MAK MEI-KUEN, J.P.

DR THE HONOURABLE KWOK KA-KI

THE HONOURABLE KWOK WAI-KEUNG

THE HONOURABLE DENNIS KWOK

THE HONOURABLE CHRISTOPHER CHEUNG WAH-FUNG, J.P.

DR THE HONOURABLE FERNANDO CHEUNG CHIU-HUNG

THE HONOURABLE SIN CHUNG-KAI, S.B.S., J.P.

DR THE HONOURABLE HELENA WONG PIK-WAN

THE HONOURABLE IP KIN-YUEN

DR THE HONOURABLE ELIZABETH QUAT, J.P.

THE HONOURABLE MARTIN LIAO CHEUNG-KONG, J.P.

THE HONOURABLE POON SIU-PING, B.B.S., M.H.

THE HONOURABLE TANG KA-PIU

DR THE HONOURABLE CHIANG LAI-WAN, J.P.

IR DR THE HONOURABLE LO WAI-KWOK, B.B.S., M.H., J.P.

THE HONOURABLE CHUNG KWOK-PAN

THE HONOURABLE CHRISTOPHER CHUNG SHU-KUN, B.B.S., M.H., J.P.

THE HONOURABLE TONY TSE WAI-CHUEN

PUBLIC OFFICERS ATTENDING:

THE HONOURABLE JOHN TSANG CHUN-WAH, G.B.M., J.P.
THE FINANCIAL SECRETARY

PROF THE HONOURABLE ANTHONY CHEUNG BING-LEUNG, G.B.S.,
J.P.
SECRETARY FOR TRANSPORT AND HOUSING

THE HONOURABLE TSANG TAK-SING, G.B.S., J.P.
SECRETARY FOR HOME AFFAIRS

THE HONOURABLE MATTHEW CHEUNG KIN-CHUNG, G.B.S., J.P.
SECRETARY FOR LABOUR AND WELFARE

PROF THE HONOURABLE K C CHAN, G.B.S., J.P.
SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY

THE HONOURABLE GREGORY SO KAM-LEUNG, G.B.S., J.P.
SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT

THE HONOURABLE RAYMOND TAM CHI-YUEN, G.B.S., J.P.
SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS

THE HONOURABLE LAI TUNG-KWOK, S.B.S., I.D.S.M., J.P.
SECRETARY FOR SECURITY

THE HONOURABLE WONG KAM-SING, J.P.
SECRETARY FOR THE ENVIRONMENT

MR LAU KONG-WAH, J.P.
UNDER SECRETARY FOR CONSTITUTIONAL AND MAINLAND
AFFAIRS

MR GODFREY LEUNG KING-KWOK
UNDER SECRETARY FOR COMMERCE AND ECONOMIC
DEVELOPMENT

CLERKS IN ATTENDANCE:

MR KENNETH CHEN WEI-ON, S.B.S., SECRETARY GENERAL

MRS JUSTINA LAM CHENG BO-LING, DEPUTY SECRETARY GENERAL

MR ANDY LAU KWOK-CHEONG, ASSISTANT SECRETARY GENERAL

MISS ODELIA LEUNG HING-YEE, ASSISTANT SECRETARY GENERAL

MRS PERCY MA, ASSISTANT SECRETARY GENERAL

TABLING OF PAPERS

The following papers were laid on the table under Rule 21(2) of the Rules of Procedure:

Subsidiary Legislation/Instruments	<i>L.N. No.</i>
Air Pollution Control (Marine Light Diesel) Regulation.....	2/2014
Food and Drugs (Composition and Labelling) (Amendment) Regulation 2014.....	3/2014
Road Traffic (Construction and Maintenance of Vehicles) (Amendment) Regulation 2014	4/2014
Import and Export (Fees) (Amendment) Regulation 2014.....	5/2014
Chemical Weapons (Convention) Ordinance (Amendment of Schedule 4) Order 2014.....	6/2014
Designation of Libraries (Amendment) Order 2014	7/2014
Prisons (Amendment) Order 2014.....	8/2014
Rehabilitation Centres (Appointment) (Amendment) Order 2014.....	9/2014
Training Centre (Consolidation) (Amendment) Declaration 2014.....	10/2014

Other Papers

No. 66 — Legal Aid Services Council
Annual Report 2012-13

- No. 67 — Employees' Compensation Insurance Levies Management Board
Annual Report 2012-2013
- No. 68 — Employees Compensation Assistance Fund Board
Annual Report 2012-2013
- No. 69 — Occupational Deafness Compensation Board
Annual Report 2012-2013
- No. 70 — Pneumoconiosis Compensation Fund Board
Annual Report 2012
- No. 71 — Hospital Authority
Annual Report 2012-2013
- No. 72 — Samaritan Fund
Financial Statements for the year ended 31 March 2013 and
Report on the Fund

Report No. 10/13-14 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments

Report of the Bills Committee on Air Pollution Control (Amendment) (No. 2) Bill 2013

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

Review of Guesthouse Licensing System

1. **MR CHRISTOPHER CHUNG** (in Cantonese): *President, earlier, a Number 3 alarm fire broke out in a commercial/residential building in North Point, causing injuries to over 20 people and, among them, several guesthouse*

guests were in critical condition. It was reported that as there were a number of licensed and unlicensed guesthouses in that building and the residents and guesthouse guests scrambled for escape during the fire, the capacity of the fire escapes had been exceeded and a chaotic situation resulted. It is learnt that in vetting and approving applications for guesthouse licences, the authorities will not consider the requirements of the Deeds of Mutual Covenant (DMCs) nor the views of the residents of the buildings concerned. Hence, despite the stipulation in the DMC of the building in the aforesaid incident that operation of guesthouses above the third floor is prohibited and objection raised by the owners' corporation (OC), the authorities still issued licences to a number of guesthouses in the building. There are comments that the fire has exposed many loopholes in the existing guesthouse licensing system and the relevant legislation, and the perfunctory law enforcement against unlicensed guesthouses taken by the authorities. In this connection, will the Government inform this Council:

- (1) whether it will, in the light of the aforesaid incident, conduct a comprehensive review of the existing guesthouse licensing system and legislation, including the addition of a condition for vetting and approving applications for licences, that is, the applicant must submit proof that the application is not in violation of the terms in the DMC and the land lease of the building concerned;
- (2) whether it will examine the introduction in the guesthouse licensing system of a mechanism whereby the views of the residents in the buildings concerned on the licence applications will be gauged, and such views and the capacity of the communal facilities of the buildings concerned will be included as factors for consideration in granting licences; and
- (3) whether it has any plan to review and improve the existing policies and measures for combating unlicensed guesthouses, including stepping up efforts in conducting inspections and taking law-enforcement actions, and increasing the penalties for the relevant offences so as to enhance the deterrent effect?

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, thank you Mr Christopher CHUNG for the question. We are saddened by the casualties caused by the Number 3 alarm fire at the Continental Mansion, North Point in the

end of last month. The incident, which has been classified as an arson by the police, is still under investigation. At this stage, I will not relate the incident to the licensing regime for guesthouses.

My reply to Mr CHUNG's question is as follows:

- (1) The primary purpose of the Hotel and Guesthouse Accommodation Ordinance (the Ordinance) (Cap. 349) is to, through a licensing regime, ensure that premises used as hotels or guesthouses meet the standards specified in the Buildings Ordinance (BO) and the Fire Services Ordinance (FSO) for the safety of the lodgers and the public. The Office of the Licensing Authority (OLA) under the Home Affairs Department (HAD) is responsible for the implementation of the Ordinance, including issuing guesthouse licences and performing related enforcement duties. It has been over 20 years since the Ordinance was passed by the then Legislative Council in May 1991. The upsurge of incoming visitors in recent years has led to an increasing demand for guesthouses operated in private buildings. When the capacity for accommodating tourists is increasing, we have to ensure that the life of the public will not be adversely affected. To this end, drawing reference to the OLA's enforcement experience, the HAD has recently kick-started a review on the Ordinance and the licensing procedures with a view to (i) enhancing the effectiveness of the OLA's enforcement action against unlicensed guesthouses, and (ii) examining the desirability and feasibility of tightening the licensing regime so as to minimize the nuisance or impact posed to the other occupants of the buildings concerned. The HAD is actively mapping out specific proposals. It is expected that a consultation exercise will be launched in mid-2014 to widely gauge public views. As abovementioned, the review is not a response to the incident.
- (2) In processing and approving applications for guesthouse licences, the OLA shall act under the powers conferred by the Ordinance. Under the current licensing regime, premises intended to be used as guesthouses have to be in compliance with the requirements relating to building structure, fire safety and sanitary as specified in the BO

and the FSO, and approved by the Building Authority⁽¹⁾ for "domestic purposes". In accordance with the BO, "domestic purposes" include the use of premises as a hotel, guesthouse, boarding-house, and so on. The OLA will also make reference to the approved plan and the design of the means of escape of the building concerned to ensure that the total number of expected occupants within the building shall not exceed the maximum number of persons specified in the approved plan.

Under section 8(3) of the Ordinance, the Hotel and Guesthouse Accommodation Authority (the Authority) may refuse to issue a licence in respect of a guesthouse only on the grounds that the guesthouse fails to comply with the relevant standards set out in the BO and the FSO, or that its operation is not under the continuous and personal supervision of the applicant. The existing Ordinance does not empower the Authority to refuse an application because of other considerations, including terms of land leases, the DMC and residents' views.

As one of the occupiers, the licensee of a guesthouse has the responsibility to comply with the DMC of the building concerned. A guesthouse licence is by no means a waiver of any DMC provisions. The OLA clearly reminds licensees, in the guidelines on licence application, licence application forms, application confirmation letters as well as notification letters concerning licence issuance, renewal and transfer, and so on, to ensure that the operation of their guesthouses in the premises is in compliance with the provisions of the DMC and other relevant leases, failing which they shall bear the legal consequences and liabilities.

To let residents know as early as possible that a guesthouse licence application involving a premises of their building is submitted, the OLA will put in place a new arrangement under which it will, upon receipt of an application for a guesthouse licence (including a renewal application), take the initiative to inform the OC, residents'

(1) Under the BO, the Building Authority is the Director of Buildings.

organization or property management company of the building concerned and upload such information onto its website. The OC and the owners will therefore have sufficient time to examine the relevant provisions in DMC and consider exercising their power conferred by the DMC to take appropriate action.

- (3) The OLA has spared no effort and adopted a multi-pronged approach to combat and raid unlicensed guesthouses, including strengthening law-enforcement action, enhancing deterrent effect and stepping up publicity, and so on. In recent years, the OLA has increased manpower resources and recruited front-line officers with law-enforcement experience. It has also adjusted its enforcement strategies and employed different enforcement tactics flexibly so as to increase significantly the number of inspections, and make every effort to collect evidence of suspected unlicensed guesthouse operation.

As for law-enforcement action, when suspected unlicensed guesthouse operation is identified or such a report is received, the OLA will conduct an inspection within eight working days. Having regard to the circumstances of individual cases, the OLA will follow up and collect evidence by employing the most appropriate and effective means, such as conducting surprise inspections at different times, launching large-scale and targeted inter-departmental operations, or posing as clients (commonly known as "snaking"). Prosecution will be instituted by the OLA immediately if there is sufficient evidence that the premises concerned are involved in unlicensed guesthouse operation.

The OLA has also strengthened its intelligence gathering work by deploying staff to collect the publicity materials of suspected unlicensed guesthouses. Moreover, it has set up a dedicated Internet enforcement team to browse webpages, discussion forums and blogs to search information and intelligence about suspected unlicensed guesthouses on the one hand, and appeal to tourists to choose patronizing licensed guesthouses on the other.

Operating an unlicensed guesthouse is a criminal offence. Any person who is convicted of operating an unlicensed guesthouse is liable to imprisonment and will lead to a criminal record. The maximum penalty upon conviction is a fine of \$200,000 and imprisonment for two years, and a fine of \$20,000 for each day during which the offence continues. For a greater deterrent effect, the OLA will pass information on convicted records of successful prosecution cases and their relevant details to the Rating and Valuation Department, the Inland Revenue Department, mortgage banks or monetary institutions, property owners, and the OCs and management offices of the buildings concerned, so that they can take follow-up action under their purview or out of their rights and interests. Should any property or insurance agent be convicted, the OLA will also pass the conviction records to the Estate Agents Authority or the Office of the Commissioner of Insurance for follow-up action.

The OLA has also implemented a measure targeting at those guesthouse licensees who operate unlicensed guesthouses at other premises (commonly known "shadow guesthouses"). If a guesthouse licensee is convicted of operating an unlicensed guesthouse by the Court, the OLA will consider cancelling all the licences held by the licensee concerned or refusing to renew the licences pursuant to the Ordinance. So far, the OLA has cancelled or refused to renew the licences of 13 guesthouses for this reason.

As regards publicity, the OLA has already uploaded a list of licensed guesthouses onto its webpage and launched the Licensed Guesthouse Logo Scheme for tourists' easy identification of licensed guesthouses. In collaboration with the Tourism Commission, Hong Kong Tourism Board, Travel Industry Council and Consumer Council, the OLA also appeals to tourists to choose patronizing licensed guesthouses and conveys the message to the tourism authorities of the Mainland. In addition, the OLA will launch a new round of publicity before the Lunar New Year holidays and, later this year, roll out a mobile application for tourists' search of information on licensed guesthouses anytime and anywhere.

In the past five years, the figures of enforcement and prosecution against suspected unlicensed guesthouse operation have been tripled (details are at Annex). Of the 390 persons convicted in total during the period, 13 were sentenced to immediate imprisonment. These demonstrate OLA's determination, the intensity and effectiveness of its efforts in combating unlicensed guesthouse operation.

The OLA will review and flexibly adjust its enforcement and publicity strategies and continue to combat and eradicate unlicensed guesthouses vigorously.

Annex

Enforcement figures on inspection, prosecution and conviction against suspected unlicensed guesthouse operation (2009 to 2013)

	2009	2010	2011	2012	2013
Inspection	2 430	2 678	3 125	6 791	9 889
Prosecution ^(Note)	39	38	53	128	171
Conviction ^(Note)	36	44	39	110	161

Note:

There was a slight difference between the figures of prosecution and those of conviction in the same year as some of the prosecution cases were heard in the following year.

MR CHRISTOPHER CHUNG (in Cantonese): *President, at present, there is a provision on new liquor licence applications, requiring an applicant to publish a notice at his own expense in three local newspapers to consult the public and find out if there are objections. I would like to ask the Secretary: Since guesthouse licences have significant impacts, will he consider adopting the abovementioned practice in the consultation to be carried out in future? Will he require the applicant to publish a notice in newspapers to consult the public on his application, consider the provisions of the DMCs and the views of the residents of the buildings concerned, and include these issues in the scope of the consultation?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, the applications for each type of licence are handled in accordance with different requirements, and are regulated under different laws. The regulatory approach in the existing Ordinance is different from the regulatory approach for the issuance of liquor licences. As I have mentioned in my main reply, the Home Affairs Department has started reviewing the laws relating to the issuance of guesthouse licences, and we will consider the views of all parties in the review process.

MS CLAUDIA MO (in Cantonese): *President, it is specified in the DMCs of the Hung Hom Bay Centre that the ground floor, first floor and second floor are only for office purposes, but the principal landlord has now applied to the Town Planning Board (TPB) for changing the designated use to hotel, and will later apply for a guesthouse licence. This is completely different from what the Secretary has just said. I hope the Secretary would communicate with the TPB regarding this application. The TPB will scrutinize this application on 7 Feb but I think it is totally unacceptable.*

As we can imagine, when small owners bought the units for self-occupation, they thought that the units on the lower floors were offices, and there would not be any disputes. It is still acceptable even the lower floors are used as a shopping centre. However, the place will now be turned into a hotel. How can this possibly happen? If the TPB is indifferent to the matter and ignores the upcoming review ...

PRESIDENT (in Cantonese): Ms MO, please do not make lengthy comments.

MS CLAUDIA MO (in Cantonese): *... it will be serious if the scrutiny proceeds, because it is estimated that the number of visitors will reach almost 100 million in the next 10 years ...*

PRESIDENT (in Cantonese): Please state your supplementary question, do not make any comments.

MS CLAUDIA MO (in Cantonese): *... the number of visitors will reach 100 million. I raise a supplementary question to request the Home Affairs Bureau to immediately ask the TPB not to consider the application relating to the Hung Hom Bay Centre on 7 February as the Government is conducting a review.*

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, the TPB follows the statutory procedures in dealing with every application, and I believe it will listen fully to the views of various parties when handling the applications.

MS CLAUDIA MO (in Cantonese): *Does that mean we can completely ignore the provisions of the DMCs?*

PRESIDENT (in Cantonese): Ms MO, I have reminded you a few times that no debate is allowed during the question session.

MS CLAUDIA MO (in Cantonese): *I just wish to ask a question.*

PRESIDENT (in Cantonese): If you are dissatisfied with the Government's reply, please follow up through other channels. If you wish to raise another supplementary question, please wait for your turn again.

MR KWOK WAI-KEUNG (in Cantonese): *The Secretary mentioned in part (2) of his main reply that the existing Ordinance does not empower the Authority with supervisory function, but he later pointed out that licensees are clearly reminded that they must comply with the DMCs and they must not violate the terms in the DMCs. In other words, the Secretary also wants to regulate but he is not permitted to do so under the Ordinance. May I ask the Secretary if he is willing to shoulder responsibilities for conducting regulation? These problems are caused by the Home Affairs Bureau. Such problems should not have existed, but as the Bureau has issued the licences, the problems have thus arisen. Since the licences have already been issued by the Bureau, will the Secretary assist the OCs and small owners by funding their legal proceedings? As the owners have the DMCs in hand, they will very probably win the lawsuits. Will the Bureau*

first pay the cost for the legal proceedings, so that the owners would not need to make any financing arrangements? In any case, the Bureau can recover the payments in future after the owners have won the lawsuit.

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, the OLA can only handle licensing matters according to the laws enacted by the legislature, and the existing laws have clearly specified the conditions under which the authorities can reject the issuance of hotel or guesthouse licences. It is also clearly provided that the reasons for rejecting the issuance of licences must be provided. There are only four reasons, including fire and structural safety, but the contents of the DMCs is not included.

Therefore, the OLA can only perform its functions in accordance with the laws. It cannot specify any conditions other than the provisions of the Ordinance for processing licence applications. If it is considered necessary to process licence applications according to the DMCs or the views of other residents of the buildings concerned, the Legislative Council should first exercise its power and pass the amendments to the Ordinance, so as to empower the OLA to enforce the relevant provisions.

PRESIDENT (in Cantonese): Mr KWOK, what is your point?

MR KWOK WAI-KEUNG (in Cantonese): *President, my supplementary question just now is clear enough, and it is ...*

PRESIDENT (in Cantonese): Mr KWOK, your supplementary question is not clear. Please briefly repeat your question and do not make comments.

MR KWOK WAI-KEUNG (in Cantonese): *I have actually not made any comments, in any case, my comments cannot be compared with Ms MO's.*

PRESIDENT (in Cantonese): Mr KWOK, please stop making comments immediately.

MR KWOK WAI-KEUNG (in Cantonese): *I just want to ask the Secretary if he will fund the legal proceedings involving OCs and small owners, so that they do not have to pay out of their own pockets.*

PRESIDENT (in Cantonese): You have already asked your follow-up question, please sit down. Secretary, the Member asked if you would fund the legal proceedings involving OCs.

SECRETARY FOR HOME AFFAIRS (in Cantonese): The Home Affairs Bureau and the HAD have always supported and encouraged OCs in discharging their functions. However, as DMC is an agreement among owners and between owners and developers or management companies, the Government, HAD or Home Affairs Bureau, not being a party to the agreement, cannot fulfil the contractual obligations on their behalf.

MISS ALICE MAK (in Cantonese): *President, the Secretary has indicated in part (1) of the main reply that it will consider a review of the Ordinance, and the Secretary has mentioned time and again that licences are issued in accordance with the Ordinance. In conducting a review, will the authorities specify that the DMCs should also be considered before the issuance of licences, as mentioned by a number of Members?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, we will consider the views in this regard. We have heard these views. I would also like to point out that we have conducted some preliminary studies and found that among tens of thousands of buildings in Hong Kong, and about 280 buildings have licensed guesthouses. The number of buildings involving complaints against unlicensed guesthouses is in hundreds, while there are 200 to 300 buildings in which licensed guesthouses are operated. We have examined some of the DMCs, especially the DMCs of some old buildings, and found that only a few DMCs have specifically stated that the operation of guesthouses and hostels is prohibited. Hence, if we wish to solve the guesthouse problem through DMCs, I believe only a small part of the problem can be solved.

MR WONG KWOK-HING (in Cantonese): *President, I would like to ask the Secretary a question through you. Since the authorities have said that they would consider amending the Ordinance, can it consider the different types of accommodations, including guesthouses, holiday flats and home-stay lodging in the context of the amendments, so as to avoid making amendments across the board, and allow these places to have their own development and adjustment? Will the authorities make such considerations?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): I thank Mr WONG for his supplementary question and we think it is worthy of consideration. To solve these problems at root, we need to impose restrictions as well as increase the supply. About the issue of home-stay lodgings mentioned by Mr WONG, due to various difficulties, it is really difficult for such operation to be a success. As regards whether our review will cover this area and whether we would consider how to promote the development of home-stay lodgings, while there are views in the community requesting for the development of home-stay lodgings, I am afraid the review on the Ordinance can only cover licensing issues.

PRESIDENT (in Cantonese): We have spent more than 22 minutes on this question. Second question.

Hong Kong Marathon

2. **MR LEUNG YIU-CHUNG** (in Cantonese): *President, regarding the yearly Hong Kong Marathon, will the Government inform this Council:*

- (1) *of the role played by the Government in the 2014 Hong Kong Marathon, and the assistance (including financial subsidy and the number of supporting staff from the various grades) provided to the organizer of the event;*
- (2) *of the financial and manpower assistance provided by the Government to the Hong Kong Marathon in the past five financial years, and the expenditures incurred; and*

- (3) *given that quite a number of members of the public could not participate in the Hong Kong Marathon due to over-enrolment in all these years, whether the Government will consider organizing another international marathon, so as to enable more members of the public to participate in marathons and promote sport for all; if it will, of the plan; if not, the reasons for that?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, organized by the Hong Kong Amateur Athletic Association (HKAAA), the Hong Kong Marathon is recognized as a Silver Label Road Race by the International Association of Athletics Federations. It has also been recognized as an "M" Mark major sports event by the Government since 2005.

For marathons to be held successfully in Hong Kong, a densely populated city with limited space and heavy traffic, a large number of technical problems have to be resolved. Furthermore, due to the inconvenience caused by road closures, public support and tolerance are required. In this connection, the HKAAA invites relevant government departments to offer their advice to the Hong Kong Marathon Organizing Committee every year. The HKAAA also consults District Councils concerned on the arrangements for the event.

My reply to the respective parts of the question is as follows:

- (1) The Government welcomes the growth of the marathon. Assistance provided by government departments includes: crowd and traffic management by the Hong Kong Police Force and the Civil Aid Service; enhanced operation of the Emergency Transport Co-ordination Centre by the Transport Department on the event day, so that the organizer and the relevant departments can closely monitor traffic and transport conditions and disseminate up-to-date traffic and transport information; venue support services by the Leisure and Cultural Services Department; and the provision of first aid and emergency transportation services to convey injured participants to hospitals, as well as first aid stations and medical stations along the race routes by the Auxiliary Medical Services. The roles played by government departments in the Hong Kong Marathon are set out in more detail at the Annex.

The assistance provided by various government departments is within the normal scope of their prescribed functions and the deployment of manpower in the discharge of their duties is in accordance with practical needs. Therefore, we do not keep a separate account of expenditure, including supporting staff, for the Hong Kong Marathon.

- (2) As mentioned above, as the respective government departments deploy manpower in accordance with practical needs in the discharge of their duties, we do not keep a separate expenditure account for the event, nor do we provide an estimate of the required manpower resources. In the past five years, the Government has received no funding applications from the HKAAA in relation to the Hong Kong Marathon.
- (3) The Hong Kong Marathon is organized by the HKAAA and is also recognized by relevant international sports federations. The HKAAA and other associations and organizations also host other races of various running distances, including marathons, every year. If the HKAAA were to organize another annual international marathon, the Government would provide appropriate assistance.

Annex

Roles of Government Departments in Hong Kong Marathon 2014

<i>Name of bureaux/ departments</i>	<i>Roles played and assistance provided in the event</i>
Home Affairs Bureau/	- To scrutinize the "M" Mark application of the event
Home Affairs Department/	- To provide support for the organization, promotion and ceremonies of the event
Leisure and Cultural Services Department (LCSD)	- To advise on public consultation and arrangements for the event at the district level - To reserve LCSD venues and provide on-site support services

<i>Name of bureaux/ departments</i>	<i>Roles played and assistance provided in the event</i>
Transport and Housing Bureau/ Transport Department	<ul style="list-style-type: none"> - To advise the Hong Kong Marathon Organizing Committee on the necessary traffic and transport arrangements, and attend the meetings of a working group on traffic and transport arrangements to advise on the feasibility of special traffic and transport arrangements for the event - To co-ordinate with various public transport operators, tunnel management companies, the management company of the Lantau Link and other government departments concerned on the arrangements for road closure and route diversion, relocation of bus-stops, adjustments to bus service frequency and provision of special services - To inform the public of the special traffic and transport arrangements in advance by issuing Transport Department Notices and press releases - To escalate the operation of the Emergency Transport Co-ordination Centre of the Transport Department to a collaborative monitoring mode on the day of the event and to take joint action with the police to monitor closely traffic and transport conditions, to co-ordinate emergency traffic and transport arrangements where necessary, and to disseminate up-to-date traffic and transport information. The Transport Department also invites public transport operators and the organizer to the Co-ordination Centre to strengthen liaison and provide assistance
Hong Kong Police Force	<ul style="list-style-type: none"> - To implement crowd and traffic management measures, including road closure and traffic diversions during the event to ensure public safety and order as well as to minimize the inconvenience caused to members of the public
Highways Department	<ul style="list-style-type: none"> - To carry out, in accordance with instructions from the Transport Department and the police, temporary works such as removing pedestrian railings and placing temporary railings at the finish point of the race near Victoria Park, reinstalling the pedestrian railings after the

<i>Name of bureaux/ departments</i>	<i>Roles played and assistance provided in the event</i>
	event, and carrying out levelling works at entrances to Victoria Park to provide convenient access for runners
Civil Aid Service	- To assist in crowd management at the start and finish points of the race
Auxiliary Medical Service	- To administer first aid on scene and provide emergency transport to convey injured athletes to hospitals - To set up first aid and medical stations along the race routes
Food and Environmental Hygiene Department	- To provide additional garbage bins at Victoria Park during the event - To provide water, before the event, for water stations where wet sponges are provided - To clear and collect garbage on the race routes after the event so that the roads can be reopened to traffic as soon as possible
Environmental Protection Department (EPD)	- To provide, during the course of the event, the organizer's secretariat with hourly information on air quality recorded at EPD's monitoring stations
Information Services Department	- To approve the use of "Brand Hong Kong" logo for the event and oversee its use - To assist in the publicity of activities, including the display of large advertisements at the lobby of the Airport Express Hong Kong Station, the broadcasting of television advertisements on Airport Express trains, and the display of lamp-post bunting on streets
Hong Kong Tourism Board	- To launch, in collaboration with overseas industries, tourist products with the "Hong Kong Marathon" theme in source markets such as Indonesia, Japan, Korea and Taiwan so as to attract people to take part in the event and visit Hong Kong - To promote the event to tourists through channels such as the Internet, digital media and tourist information centres

MR LEUNG YIU-CHUNG (in Cantonese): *President, I have participated in the Hong Kong Marathon for more than a decade and have a few observations. First, as the marathon has recently been held in the city centre, thus relatives of the athletes may also join them by providing support and encouragement. This will not only add to the hustle and bustle of the race, but will also enable draw more attention to the event. Second, the number of participants is on the increase. Third — which is precisely the supplementary question that I am going to ask — Although many people wanted to take part in this marathon every year, they failed as the quotas were full soon after enrolment started. They kept asking me if the quotas could be increased to accommodate more participants. However, the organizing committee replied that the quotas could not be increased due to the limitation of the roads.*

In part (3) of the main reply, the Secretary pointed out that various races have been organized in Hong Kong, but the number of participants could be as low as some 1 000. The scale is therefore not comparable with those major events. May I ask the Secretary how the quotas of Hong Kong Marathon can be further increased, such that no one will be barred from participation and that the event to catch more attention in the international arena?

SECRETARY FOR HOME AFFAIRS (in Cantonese): *President, just now Mr LEUNG said that only a few thousand people had taken part in other road races, this is incorrect. Of the various races listed in the Annex of the main reply, 14 000 people had taken part in the UNICEF Charity Run, but this is definitely not comparable to the marathon race to be held in February.*

Compared with last year, the number of participants of the coming marathon has also increased by thousands. Of course, the question at issue is to strike a proper balance between the marathon race and road closure. As we can see, while many people want to participate in the marathon, the closure of roads for the race has aroused the grievances of local residents or drivers. To address the issue, perhaps we should adopt Mr LEUNG's proposal and organize another marathon to allow more people to take part in it. Furthermore, we may explore the feasibility with the HKAAA or other local groups that are interested in organizing such events.

MR LEUNG KWOK-HUNG (in Cantonese): *Good morning, President. Hong Kong Marathon is certainly a signature event and for all signature events, there is an unspoken rule that officials will attend the events as a kind of reward. Given that the younger sister of Donald TSANG is the Chairperson for Greater China of Standard Chartered Bank, he often attended such events to support her ...*

PRESIDENT (in Cantonese): Mr LEUNG, please raise your supplementary and stop making lengthy comments.

MR LEUNG KWOK-HUNG (in Cantonese): *No, President, I must explain to help you understand, so just give me some time and 30 seconds would be enough. To boost the publicity of the Hong Kong Marathon, the Chief Executive would officiate at the kick-off ceremony. However, it has been reported that Chief Executive LEUNG Chun-ying is not going to attend the kick-off ceremony of this year's Hong Kong Marathon because the Standard Chartered Bank refused to cancel the commercial advertisements. Former Chief Executive often officiated at the ceremonies because of his younger sister, but the incumbent Chief Executive has refused to attend the ceremony because the Standard Chartered Bank disobeyed him and refused to cancel the commercial advertisements ...*

PRESIDENT (in Cantonese): Mr LEUNG, what is your supplementary question?

MR LEUNG KWOK-HUNG (in Cantonese): *... I just want to say that the Chief Secretary should refrain from using government resources for his personal purpose. The Chief Executive can either attend or not, but there should not be such conflict as the former Chief Executive "supported" the event while the incumbent one "suppressed" it for personal purpose ...*

PRESIDENT (in Cantonese): Mr LEUNG, you have made too many comments. What is your supplementary question?

MR LEUNG KWOK-HUNG (in Cantonese): *I have to ensure that he understands. Secretary, has the attendance of the Chief Executive at the kick-off ceremony of this year's marathon been discussed during the Executive Council meeting? Is there any mention of the advertisement issue? Can you give a reply to this Council? Since I heard that LEUNG Chun-ying has used government resources for private purpose, I hope the Secretary will, for the sake of safeguarding the Government's ...*

PRESIDENT (in Cantonese): Mr LEUNG, stop making comments. You have raised your supplementary, so please sit down.

MR LEUNG KWOK-HUNG (in Cantonese): *Okay, President. I know you are smart. Will the Secretary reply if the Chief Executive has done so?*

PRESIDENT (in Cantonese): Mr LEUNG, I fully understand your supplementary question. But as it is irrelevant to the main question, I cannot allow you to raise this supplementary question.

MR LEUNG KWOK-HUNG (in Cantonese): *President, it is relevant because Mr LEUNG Yiu-chung has also proposed to organize international signature events. Will the Chief Executive attend ...*

PRESIDENT (in Cantonese): Mr LEUNG, the gist of the main question is whether the authorities can address the issue of limited quota of the annual Hong Kong Marathon, which has let down many people who wish to take part in it.

MR MA FUNG-KWOK (in Cantonese): *In the main reply, the Government said that it welcomed other races. My supplementary question is: Has the Government considered taking the initiative — "taking the initiative" are the key words — to explore the possibility of organizing other marathon races, which include taking the initiative to approach the HKAAA to see if it is possible to organize another marathon race, or liaise with other organizations which have previously organized road races or half marathon races to see if more*

opportunities can be provided for athletes or members of the public to take part in the marathon races?

SECRETARY FOR HOME AFFAIRS (in Cantonese): It is true that we have been promoting running activities (include introducing marathon running) in conjunction with many organizations, such as local groups. Many districts, including the Sha Tin District and the Southern District, have also promoted running activities, and we plan to introduce running races into the biennial Hong Kong Games. From this, we can see that the Government is determined to promote running and other sports. As to whether the HKAAA should be urged to organize another territory-wide marathon race, relevant proposals will be submitted to the HKAAA after considering various requirements.

MR LEE CHEUK-YAN (in Cantonese): *Concerning the organization of signature events, the attitude of the Government in encouraging participation is very important. From the Annex, I can see the support provided by various government departments. And yet, President, the attendance of the Chief Executive as an officiating guest is also a show of support. I therefore wish to ask if Chief Executive LEUNG Chun-ying will attend the coming marathon as the officiating guest? I have been informed that he has threatened and forced the Standard Chartered Bank to cancel newspaper advertisements, and has even threatened the press. This is precisely the use of government resources for private purpose, as Mr LEUNG Kwok-hung has said, which is very ridiculous. President, my supplementary question is absolutely relevant to the main question because I want to ask if the Chief Executive will attend as the officiating guest. Both Donald TSANG and TUNG Chee-hwa had attended in the past years as a show of support. It has been a tradition for the Chief Executive to attend.*

PRESIDENT (in Cantonese): Mr LEE, you have raised your supplementary. Please be seated.

MR LEE CHEUK-YAN (in Cantonese): *Will the Chief Executive attend this time? Has he threatened the Standard Chartered Bank? Has he threatened the bank to cancel the advertisements?*

PRESIDENT (in Cantonese): Mr LEE, you are repeating your supplementary question.

(Mr LEUNG Kwok-hung spoke loudly in his seat)

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, it is clear to all that the Government is determined to promote sports, and has encouraged and supported the organization of marathon races. Throughout the years, we have been giving staunch support to the Standard Chartered Marathon. Earlier on, I received a message from the Chief Executive's Office that the Chief Executive has been invited by the Organizing Committee of the Standard Chartered Marathon to be the officiating guest of the kick-off ceremony, and the Chief Executive has entrusted me to attend on behalf of the Government. The Chief Executive's Office has relayed this message to the Organizing Committee, which welcomes my attendance to officiate the kick-off ceremony on behalf of the SAR Government.

PRESIDENT (in Cantonese): Has your supplementary question not been answered?

MR LEE CHEUK-YAN (in Cantonese): *The Secretary has not answered. This means that the Chief Executive will not attend. The Bank has cancelled the advertisements and the purpose of the Chief Executive has been achieved. Why is he not attending?*

(Mr LEUNG Kwok-hung yelled in his seat)

PRESIDENT (in Cantonese): Mr LEUNG Kwok-hung, if you continue to yell so loudly in your seat, I will order you to leave the Chamber.

MR FREDERICK FUNG (in Cantonese): *President, I wish to follow up on this question. If the purpose is to cancel the advertisements, has it been achieved? Why did the Chief Executive still refuse to be the officiating guest? What other*

functions is he going to attend on that day? It has been a tradition for the Chief Executive to officiate at the ceremony.

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, I have already given an account of the circumstances earlier and the Organizing Committee has also accepted me as the officiating guest of the kick-off ceremony. Regarding the speculative questions raised by Members earlier on, I have nothing to say.

MR FREDERICK FUNG (in Cantonese): *He has not answered my supplementary question. I asked if the Chief Executive has more important functions to attend on that day so that he cannot officiate at the ceremony.*

PRESIDENT (in Cantonese): Secretary, can you provide the information requested by the Member?

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, I am afraid that Member should make enquiries to the Chief Executive's Office.

MR FREDERICK FUNG (in Cantonese): *Will the Chief Executive's Office answer my supplementary question on behalf of the Secretary?*

PRESIDENT (in Cantonese): Secretary, do you have anything to add?

SECRETARY FOR HOME AFFAIRS (in Cantonese): I think instead of saying that the Chief Executive's Office gives a reply on behalf of the Secretary, I would say that the Secretary cannot answer this supplementary question for the Chief Executive's Office.

MR FREDERICK FUNG (in Cantonese): *President, I do not quite understand what the Secretary said.*

PRESIDENT (in Cantonese): Mr FUNG, the Secretary has already answered.

DR KWOK KA-KI (in Cantonese): *President, I have participated in this Marathon race for nearly 10 years since it was first held, and it pains me to hear the Secretary's reply to the Member's question. In order for the Marathon to be successfully held, the Government has to spend a lot of money on road closure and it has now become a signature event. The failure of the Government to urge the HKAAA to increase the relevant quotas with due diligence is unfair to many local residents. As we may be aware, the HKAAA has been drawn into many scandals, which have been mentioned earlier. It really pains us to see that the attendance of the Chief Executive at the kick-off ceremony has again been politicized. May I ask if the Secretary has diluted the political colour of the incident with due diligence, which include advising the Chief Executive to attend the function, so that he will not use it as an instrument of political blackmail to threaten the businessmen?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): The Government has all along supported the Standard Chartered Marathon and this sports event has achieved great success. As I have said right at the beginning, it has been recognized as an "M" Mark major sports event to show our support to the event. I am not going to comment on the speculative remarks made by the Members earlier.

MR NG LEUNG-SING (in Cantonese): *The emphasis of such excellent sports event should be sportsmanship, and I wonder why it has been politicized. Members may participate as they wish, and it is downright unnecessary to politicize the event. I hope that ...*

PRESIDENT (in Cantonese): Mr NG, please raise your supplementary question.

MR NG LEUNG-SING (in Cantonese): *The Annex of the Government's main reply has clearly set out the role played by various departments in the event, but the roles of the relevant government officials have not been described in detail. Given that an international marathon race held last year had ended up in a*

disaster with many people injured, will the Government assess the role played by the Hong Kong Police Force in the coming marathon to see if there is the risk of the recurrence of safety or public safety problems?

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, I understand Mr NG's supplementary question. It is true that not long ago, athletes taking part in a long-distance running race in an overseas country were attacked at the spot. I believe Hong Kong's police will refer to the overseas experiences and grasp the actual situation through their network, as well as implement corresponding measures to ensure that the marathon can be held in a smooth and successful way.

DR LAM TAI-FAI (in Cantonese): *President, the attendance of public officials at major sports events can certainly demonstrate the Government's support for them. Noting that the popularity rating of the Secretary is higher than that of the Chief Executive, may I ask if the Secretary has assessed whether his attendance or Chief Executive LEUNG Chun-ying's attendance at the marathon can better demonstrate the Government's support for this sports event?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, I have already replied that the Chief Executive has entrusted me to attend and officiate at the kick-off ceremony of this event on behalf of the SAR Government.

PRESIDENT (in Cantonese): Has your supplementary question not been answered?

DR LAM TAI-FAI (in Cantonese): *I asked the Secretary to assess the attendance of which official can better demonstrate the Government's support for this sports event.*

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, whoever attends can show the support of the SAR Government for the sports event.

MR LEUNG KWOK-HUNG (in Cantonese): *President, LEUNG Chun-ying is very smart for he has supported the marathon in an indirect way ...*

PRESIDENT (in Cantonese): Please stop making comments.

MR LEUNG KWOK-HUNG (in Cantonese): *I now apologize to LEUNG Chun-ying because he has designated a Secretary with higher popularity rating to support the event, knowing that his popularity rating is pretty low.*

PRESIDENT (in Cantonese): Please raise your supplementary question.

MR LEUNG KWOK-HUNG (in Cantonese): *Let me put my supplementary question direct. Secretary, were you picked and forced to attend the event after LEUNG Chun-ying admitted his low or even negative popularity rating in an Executive Council meeting? LEUNG Chun-ying would like to support the event, but his negative popularity rating does not allow him to do so. Have you heard of this hearsay? Is that true? Some people told me that the Chief Executive has tried very hard to support the marathon in such an indirect way. Is that true?*

PRESIDENT (in Cantonese): Mr LEUNG, according to the Rules of Procedure, a question shall not ask government officials whether statements in the press are accurate.

MR LEUNG KWOK-HUNG (in Cantonese): *This is reported by the press.*

President, the fact is, someone claiming himself LEUNG Chun-ying called to tell me that he has done so. Can the Secretary confirm if the Chief Executive has done so? This is not hearsay. I received a call from someone called LEUNG Chun-ying ...

PRESIDENT (in Cantonese): Mr LEUNG, your supplementary is not a serious question. Please be seated.

MR LEUNG KWOK-HUNG (in Cantonese): *This is too bad as I did receive a call from someone called of LEUNG Chun-ying.*

MR JAMES TIEN (in Cantonese): *President, in the Annex of the main reply, the Government has set out the roles played by various departments in the Hong Kong Marathon 2014. Nonetheless, we notice that the Chief Executive's Office does not have a role to play. May I ask if the Chief Executive's Office has assumed any role in the 2013 Marathon?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): The Chief Executive's Office is not included in the list of departments which have provided support.

MR JAMES TIEN (in Cantonese): *The Secretary has not answered my supplementary question probably because I have not put it clearly. The Annex has set out the roles of various government departments in the Hong Kong Marathon 2014, with the exception of the Chief Executive's Office. May I ask if it had assumed any role in 2013?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, the Annex of the main reply mainly sets out the roles played by various departments in support of the Hong Kong Marathon 2014. When we were preparing this Annex, we have not collected relevant information about 2013. But even if we do have the information, there would not be any mention of the role played by the Chief Executive's Office in 2013.

PRESIDENT (in Cantonese): We have spent more than 23 minutes on this question. Third question.

Debris Removal Charges Collected by Outsourced Property Services Agents of Public Rental Housing Estates

3. **MR LEUNG KWOK-HUNG** (in Cantonese): *President, justice lies in the people's heart. I have received complaints one after another from the tenants of Fung Wo Estate, Kai Ching Estate, Wing Cheong Estate, Cheung Sha Wan Estate and Un Chau Estate Phase 5, who allege that the remunerations provided by the Housing Department (HD) to outsourced property services agents (PSAs) of public rental housing (PRH) estates are so meagre that the PSAs have employed every means to collect fees from tenants who are moving into the estates. For instance, PSAs will not assist those new tenants who have not yet paid the debris removal charges (DRC) in making move-in arrangements and signing the tenancy agreements. These tenants have relayed to me that as the renovation companies had already passed on to them the waste disposal charges payable under the Waste Disposal Ordinance when they renovated their new homes, the collection of DRC by PSAs was tantamount to double charging, and the rates concerned were also on the high side. In this connection, will the Government inform this Council:*

- (1) *of the number of units, the number of tenants who have moved in, the total amount of DRC that the relevant PSA has collected or plans to collect, and the respective rates of DRC payable for small, medium and large units, in each of the aforesaid housing estates;*
- (2) *as PSAs charge PRH tenants DRC according to the property management contracts signed between PSAs and HD, whether the HD gives such authorization in accordance with the legislation; if so, of the relevant legislation; if not, whether the HD has allowed PSAs to freely charge new tenants DRC without legal authority; and*
- (3) *whether it will assist the tenants of the aforesaid housing estates in seeking refunds of DRC from the relevant PSAs; if it will, when it will do so; if not, of the reasons for that?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, it is very common for PRH tenants to carry out decoration works in their flats during their intake to new PRH estates. The decoration debris

produced is construction waste which is different from domestic waste. Tenants must dispose of the decoration debris in a proper manner and in accordance with the user-to-pay principle. In order to effectively dispose of decoration debris and avoid fly tipping and the accumulation of such waste in common areas such as building corridors and lift lobbies causing obstructions to residents and fire risks, the Hong Kong Housing Authority (HA) assigns the PSAs to collect DRC from tenants. The PSA would dispose of all decoration debris collectively. Under this arrangement, decoration contractors employed by the tenants are allowed to dump the decoration debris at a designated debris dumping point without having to transport the decoration debris to the government waste disposal facilities on their own. This arrangement has been in place for more than 10 years, and is by and large similar to the arrangement adopted by private residential developments in handling decoration debris during intake.

The tender document issued by the HA for the procurement of the property management services has clearly specified the requirements for the cleansing services to be provided and the monthly remuneration that the PSA will receive under the contract, and so on. PSAs are well aware of the contract terms ahead of their submission of bids for the tender (which includes tender prices). The HD has established an effective and fair tender assessment system to ensure that, in vetting the tenders, the contract price is reasonable and that the PSA has the capability to deliver the services required under the contract. Therefore, there is no question for unauthorized collection of DRC due to low contract price.

DRC of estates are all determined by the HD instead of being set by individual PSAs. The HD made reference to factors such as the total number of flats in the estate, flat size, distance between the estate and the nearest government waste disposal facility and operating expenses of the contractor, and so on. DRC is also clearly stipulated in the property management contract entered into between the HA and the PSA. The PSA must adhere strictly to the rates laid down in the contract. At the same time, the requirement to pay DRC and its amount are listed out in the intake documents given to tenants.

DRC collected for public housing estates is in general lower than that collected by private residential developments and has been well received by tenants over the years. The HA has not received any complaints about over-charge of DRC by PSAs in the past. For the five new estates quoted by Mr LEUNG Kwok-hung, according to the HD's records, there is no refund

application of DRC from tenants who transported the decoration debris to the government waste disposal facilities on their own or through their decoration contractors with supporting documents.

Arranging intake of tenants and signing of the tenancy agreement is a tenancy management matter handled by the PSAs on behalf of the HA, while the collection of DRC from tenants in accordance with the property management contract is an estate management matter. These two tasks are of different nature and PSAs should handle them separately. The HD reminds PSAs from time to time that if new tenants do not pay DRC during intake in accordance with the arrangements above, they should handle the matter flexibly so as to avoid delaying the moving-in of tenants.

My reply to Mr LEUNG Kwok-hung's three-part question is as follows:

- (1) As mentioned above, the rates of DRC is determined according to factors such as the total number of flats in the estate, flat size, distance between the estate and the nearest government waste disposal facility, and operating expenses of the contractor, and so on. For Fung Wo Estate in Sha Tin, Kai Ching Estate in Kowloon City, Wing Cheong Estate, Cheung Sha Wan Estate and Un Chau Estate Phase 5 in Sham Shui Po, the rates of DRC collected by the PSAs with the breakdown by flat size are set out in the Appendix. Broadly speaking, DRC ranges from around \$160 and \$180 for 1 to 2 Person Flats to around \$460 and slightly less than \$600 for 2 Bedroom Flats.

(2) and (3)

Pursuant to the property management contract entered into between the HA and the PSA, the PSA is to collect DRC from new tenants at the rates specified in the contract for the flats in accordance with the size of the PRH flats.

However, elderly families (with all family members aged 60 or above), families receiving Comprehensive Social Security Assistance or Disability Allowance are eligible for the exemption of DRC. Tenants who are exempted from DRC but did not apply for

exemption during intake and paid DRC can apply to the PSA for refund and the PSA will handle the applications as soon as possible.

Individual tenants of new PRH flats can opt not to use the service provided by the PSA and to arrange for the transportation of the decoration debris on their own. If they deliver the decoration debris to government waste disposal facilities on their own in accordance with the statutory requirements, and can provide relevant supporting documents, the PSA would arrange for the refund of DRC as soon as possible upon receipt of the refund applications. Furthermore, for tenants who declare that no fitting-out works will be carried out, the PSA would conduct flat inspections within three months after the execution of tenancy agreement and will arrange for the refund of DRC as soon as possible after verification.

For the 10 408 flats with intake in the five new estates quoted by Mr LEUNG Kwok-hung, about 25% have been exempted from payment of DRC. Only less than 1% have DRC refunded as no fitting works has been carried out in their flats. In addition, according to the HD's records, there is no refund application of DRC from tenants who transported the decoration debris to the government waste disposal facilities on their own or through their decoration contractors with supporting documents.

Annex

<i>Estate Name</i>	<i>Total number of Household</i>	<i>DRC determined by the HD</i>			
		<i>1 to 2 Person Flat</i>	<i>2 to 3 Person Flat</i>	<i>1-Bedroom Flat</i>	<i>2-Bedroom Flat</i>
Fung Wo Estate	1 607	\$172	\$263	\$400	\$488
Kai Ching Estate [#]	5 204	\$162	\$261	\$363	\$466
Wing Cheong Estate	1 488	\$183	\$273	\$439*	\$599
Cheung Sha Wan Estate	1 390	\$178	\$269	\$452	\$573

<i>Estate Name</i>	<i>Total number of Household</i>	<i>DRC determined by the HD</i>			
		<i>1 to 2 Person Flat</i>	<i>2 to 3 Person Flat</i>	<i>1-Bedroom Flat</i>	<i>2-Bedroom Flat</i>
Un Chau Estate Phase 5 ^{##}	1 486	N/A	\$243	\$362	\$465

Notes:

* \$500 for those flats with balconies.

Comparing with other new estates like Fung Wo Estate, Wing Cheong Estate and Cheung Sha Wan Estate of similar intake dates, Kai Ching Estate has a much larger number of flats, and decoration debris can be handled collectively in a comparatively easier way, so the DRC for Kai Ching Estate is comparatively lower.

The intake for Un Chau Estate (April 2012) is earlier than the other four estates. The DRC for Un Chau Estate is comparatively lower.

MR LEUNG KWOK-HUNG (in Cantonese): *President, Dr CHEUNG is awesome. He is "The 'learned Doctor' who intended to buy a donkey and scribbled a three-page contract without mentioning the word donkey". Actually, his reply has confirmed my suspicion because only 1% of the tenants in these five estates have their DRC refunded. The Secretary mentioned that exemption was granted to many tenants. While it sounds great, those tenants are not the subject of my question because they were exempted by the Government according to legislation.*

My question is: Apart for the 1% of tenants with DRC refunded, all other tenants must pay DRC to PSAs according to the HD's requirements, and those who do not pay up cannot move in. Given this draconian rule, everybody must of course pay up even if it means borrowing from others. Hence, I would like to ask the Secretary whether such practice was in order? For instance, I am entitled to live in a PRH unit, yet I cannot afford this sum, and the PSA tells me that it will only handle the move-in arrangements after I have paid DRC, which effectively means that I cannot move in. Buddy, I asked the Secretary whether this policy was proper, yet according to the Secretary's reply, an abnormality existed as a result of the policy. What does it mean? It just shows that I am right ...

PRESIDENT (in Cantonese): Please ask your supplementary question.

MR LEUNG KWOK-HUNG (in Cantonese): *I am asking the Secretary whether the Government has any intention to abolish this draconian rule and direct the HD to allow tenants to move in before and then collect the DRC? If the Government is worried about the difficulty of recovering the money, it can institute proceedings at the Small Claims Tribunal and seek help from the Department of Justice. Can it stop creating nuisance for the public? Can it refrain from making the tenants suffer just because it needs to stringently follow the rules?*

PRESIDENT (in Cantonese): Mr LEUNG, you have already asked your supplementary question. Please sit down.

MR LEUNG KWOK-HUNG (in Cantonese): *Secretary, do you understand what I mean? You got it, right?*

PRESIDENT (in Cantonese): Please sit down.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I have already stated clearly in the main reply just now that arranging intake of tenants and signing of the tenancy agreement is a tenancy management matter handled by the PSAs, while the collection of DRC and the disposal of decoration debris is an estate management matter. As I have stated clearly in the main reply, the HD would remind PSAs from time to time that they should not delay the early moving-in of new tenants because they have not paid the DRC in accordance with the arrangements.

(Mr LEUNG Kwok-hung stood up)

PRESIDENT (in Cantonese): Mr LEUNG, please repeat your supplementary question.

MR LEUNG KWOK-HUNG (in Cantonese): *I asked whether he would abolish this policy and completely segregate the PSAs from the right of intake, so that new tenants could pay DRC after moving in. What was he talking about?*

PRESIDENT (in Cantonese): Mr LEUNG, please sit down.

MR LEUNG KWOK-HUNG (in Cantonese): *Has he answered the question?*

PRESIDENT (in Cantonese): Mr LEUNG, please sit down. Secretary, can you supplement further on this policy?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, the PSAs are responsible for both matters under the existing arrangement, and there is no provision that new tenants cannot move in without paying DRC. I wish to make this point clear.

Regarding DRC, as I have also mentioned in the main reply, if a tenant said that he himself or his decoration contractor would make arrangements to transport the decoration debris, he would of course receive a refund. The current rates of DRC are determined by the HD, instead of being set by individual PSAs arbitrarily. Moreover, DRC is also clearly stipulated in the contract entered into between the HA and the PSA.

I also explained in the main reply just now what factors have been considered when determining the rates of DRC. Insofar as new PRH estates are concerned, the amount of DRC will be listed out in the intake documents so as to give the tenants a clear understanding. In other words, if the tenants consider the amount too high and prefer to make their own arrangements, they are free to do so.

MR LEUNG KWOK-HUNG (in Cantonese): *He has really not answered my question, President, but I will stop if you do not let me ask further.*

PRESIDENT (in Cantonese): Mr LEUNG, please sit down. Secretary, Mr LEUNG's question is that even though a new tenant has not made his own arrangement to dispose of the construction debris, is it possible for him to proceed with moving-in even if he has yet to pay or has not paid DRC?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): I have already answered the question. In both the main reply as well as my initial answer to Mr LEUNG's supplementary question, I have already stated clearly that these two tasks are of different nature and hence, the moving-in of tenants should not be affected due to any late payment of DRC.

MR LEUNG KWOK-HUNG (in Cantonese): *President, that is a question between "what ought" and "what is", that is, the current situation is not what it should be. If there is any irregularity, sanction should be imposed, or else, the practice should be stopped.*

PRESIDENT (in Cantonese): Mr LEUNG, please sit down. The Secretary has answered the question clearly.

MR LEUNG KWOK-HUNG (in Cantonese): *I know, and people in the public gallery have also heard it.*

PRESIDENT (in Cantonese): If you think the Secretary's reply does not accurately reflect the actual policy, you can follow up on other occasions.

MR WONG YUK-MAN (in Cantonese): *President, Mr LEUNG Kwok-hung is most insistent on this matter. Secretary, even before you assumed office, he has already asked a written question in May 2012. That question was answered by the then Secretary, Ms Eva CHENG. Her reply is slightly better than yours, but the contents are just more or less the same. You are not familiar with this matter at all, and have no idea about the extent of nuisance it created for the new PRH tenants, as well as their suffering. You have absolutely no idea at all. Your assistants or the Administrative Officers have prepared this long speech for*

you, and you merely read it out, right? You are just reading out the speech and have no idea at all about what has happened. I can even criticize you ...

PRESIDENT (in Cantonese): Mr WONG, please ask your supplementary question.

MR WONG YUK-MAN (in Cantonese): *You go back and ask if PESCOD can give you an explanation.*

PRESIDENT (in Cantonese): Mr WONG, please ask your supplementary question.

MR WONG YUK-MAN (in Cantonese): *Here is my supplementary question: Given that there is now double charging, and tenants are prevented from moving in, this policy should have been abolished right away, and Mr LEUNG's question just now has already illustrated the problems clearly, right? Yet you just muddle through, saying that the matters would be handled matters separately. The crux is not about handling the matters separately, but the PSAs which are under your control. Buddy, that is the bane of outsourcing. The same problem has also happened in several PRH estates in my constituency, so stop treating us like fools.*

PRESIDENT (in Cantonese): Mr WONG, you have already asked your supplementary question, so please sit down.

MR WONG YUK-MAN (in Cantonese): *I want him to reply again. He must abolish this bad policy or draconian policy, OK? Moreover, he should give us a specific timetable as to when this policy would be abolished or when the relevant studies would be undertaken.*

PRESIDENT (in Cantonese): Please sit down.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, as I have already said clearly in the main reply, we have all along followed the user-to-pay principle when it comes to the disposal of decoration debris ...

MR WONG YUK-MAN (in Cantonese): *President, he keeps mentioning that point. At present, there is double charging, buddy. At present, the situation is that tenants must pay double charges ...*

PRESIDENT (in Cantonese): Mr WONG, please sit down.

MR WONG YUK-MAN (in Cantonese): *... or else, they cannot move in.*

PRESIDENT (in Cantonese): Mr WONG, please let the Secretary reply.

MR WONG YUK-MAN (in Cantonese): *Buddy, he will just repeat his earlier reply. President, is my supplementary question not clear enough?*

PRESIDENT (in Cantonese): Please do not interrupt the Secretary's speech.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I would like to provide some information to Mr WONG. In fact, DRC was first levied in the early 1990s, rather than after the outsourcing of estate management services by the HD. It was just a matter of continuing the practice when estate management services were outsourced around 2000 with the PSAs taking over various estate management services. However, in terms of the system itself, we have not allowed the rates of DRC be set by individual PSAs arbitrarily; instead, they must follow the standards determined by the HA. The rates of DRC for public housing estates are lower than that collected by private residential developments. That is an objective fact. By double charging, I think what he means is that some tenants who are unaware of this arrangement

have, on the one hand, paid DRC to the PSAs, and on the other hand, spent money to make their own transport arrangements.

I have already mentioned this matter in the main reply just now. We have already clearly listed out DRC arrangements in the intake documents. If there is any inadequacy in respect of publicity or dissemination of information in the past, I will ask the HD to review the matter again. If there ...

MR WONG YUK-MAN (in Cantonese): *Who gives authorization to the PSAs in the first place?*

PRESIDENT (in Cantonese): Mr WONG, before you speak, you must raise your hand in indication and only rise to speak until I call your name. Secretary, do you have anything to add?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I think I have explained clearly. DRC is collected by the PSAs in accordance with the property management contracts they entered into with the HD, and the rates are determined by the HD, rather than set by individual PSAs. Hence, they implement the arrangement in accordance with the standards determined by the HD.

MR TONY TSE (in Cantonese): *President, the Secretary just said that DRC was determined by the HD. I would like to ask whether the DRC collected by the PSAs is sufficient to cover the cost of handling the debris? In case of any surplus, will the amount be transferred to the accounts of the PSAs? In other words, if the PSAs have a surplus, will such surplus become their profits? Has the HD followed up on whether the charges collected by the PSAs are sufficient to cover the cost of handling the debris of all tenants? If there is a loss, do the PSAs have to bear the shortfall?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I have already stated in the main reply that when determining DRC, the HD would make made reference to various factors, such as the total number of

flats in the estate, flat size, distance between the estate and the nearest government waste disposal facility, and so on. Of course, the operating expenses of contractors is another factor. As the PSAs would deploy vehicles and transportation labourers for the work, they must calculate the cost accordingly, and our calculations are also made on the basis of cost in accordance with the user-to-pay principle.

Comparatively speaking, we note that the per-square-foot DRC currently collected by private residential developments is higher than that collected for PRH. Regarding PRH, for the five PRH estates mentioned in my reply to Mr LEUNG's question just now, the per-square-foot DRC ranges from \$1.08 to \$1.27, with \$1-odd being the average. According to the statistics for some private residential developments with intake at more or less the same time, the per-square-foot DRC ranges from over \$2, \$1.8 to \$1.6. Hence, the DRC currently collected by the PSAs is calculated on similar principles as adopted by private companies, and lower than that collected by private residential developments.

PRESIDENT (in Cantonese): Mr TSE, has your supplementary question not been answered?

MR TONY TSE (in Cantonese): *Actually, my question is whether the PSAs are solely responsible after the collection of DRC regardless of whether a profit or a loss is incurred for the handling of the debris? Is that the case?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, that is correct because the property management contracts awarded to the PSAs cover various estate management services collectively.

MR PAUL TSE (in Cantonese): *President, as a colloquial Chinese saying goes, "People fear no government officials but hate to be governed". The most critical issue is that notwithstanding the current situation as clearly stated in the main reply, especially paragraph 5, PRH tenants generally lack a clear understanding of the arrangements, or the PSAs may adopt certain measures intentionally so as to give tenants a wrong idea that they cannot move in without paying DRC,*

because the PSAs prefer not to make claims in the Small Claims Tribunal. In this regard, can the Secretary give an undertaking that he will clearly relay the contents of this reply to the PSAs again through a written notice, that is, the PSAs should not obstruct the moving-in of tenants because they have yet to collect DRC, so that members of the public are aware of their rights?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, it is our policy that the moving-in of new talents should not be delayed or obstructed because of DRC. If, as just mentioned by Mr TSE, some new tenants are unaware of the situation, we would gladly explain again. On the one hand, a reminder would be issued to the PSAs, and on the other hand, new tenants would be clearly informed and notified of the existing arrangements as stated in my main reply just now, in order to ensure that new talents have a clear understanding of the relevant information.

PRESIDENT (in Cantonese): This Council has already spent over 22 minutes 30 seconds on this question. Fourth question.

Vetting and Approving Mainlanders' Applications for Settlement in Hong Kong

4. **MR SIN CHUNG-KAI** (in Cantonese): *President, Article 22(4) of the Basic Law provides that: "[f]or entry into the Hong Kong Special Administrative Region, people from other parts of China must apply for approval. Among them, the number of persons who enter the Region for the purpose of settlement shall be determined by the competent authorities of the Central People's Government after consulting the government of the Region". In this connection, will the Government inform this Council:*

- (1) *of the occasions, since the reunification, on which the Central People's Government consulted the Hong Kong Special Administrative Region (HKSAR) Government on the number of persons entering the HKSAR for the purpose of settlement, as well as the views given by the HKSAR Government on each occasion; whether the HKSAR Government has taken the initiative to give its*

views to the Central People's Government in this regard; if it has, of the details; if not, the reasons for that;

- (2) whether there were past cases in which the HKSAR Government specifically participated in vetting and approving the applications of individual Mainlanders for settlement in Hong Kong, and whether the HKSAR Government had examined the relevant application documents; if so, of the details; if not, the reasons for that; and*
- (3) given that the incumbent Chief Executive promised in his election manifesto in 2012 that "reserves unto the government the authority to screen and approve newcomers to our shores", but the Chief Secretary for Administration openly indicated on 24 October 2013 that there was no question of taking back the power of vetting and approving applications for One-way Permit (OWP) (that is, Permit for Proceeding to Hong Kong and Macao), how the authorities honour that promise?*

SECRETARY FOR SECURITY (in Cantonese): President, first and foremost, I must point out that the OWP Scheme is implemented with the aim of allowing Mainland residents to come to Hong Kong for family reunion in an orderly manner, instead of importing talents from outside Hong Kong. Article 22 of the Basic Law stipulates that, for entry into the HKSAR, people from other parts of China must apply for approval. The provisions of this Article, in accordance with the Interpretation by the Standing Committee of the National People's Congress in 1999, mean that Mainland residents who wish to enter Hong Kong for whatever reason, must apply to the relevant authorities of their residential districts for approval in accordance with the relevant national laws and administrative regulations, and must hold valid documents issued by the relevant authorities. As such, Mainland residents who wish to settle in Hong Kong for family reunion must apply for OWPs from the Exit and Entry Administration offices of the Public Security Bureau of the Mainland at the places of their household registration.

My consolidated reply to the Member's questions is as follows.

OWPs are documents issued by relevant authorities in the Mainland. The application, approval and issuance of OWPs fall within the remit of the Mainland

authorities. The HKSAR Government facilitates at case level, including issuing Certificates of Entitlement to children of Hong Kong permanent residents, and when necessary, rendering assistance in verifying the supporting documents submitted by applicants and their claimed relationship with relatives in Hong Kong (for example, husband and wife or parent-child relationship). Furthermore, persons whose application is found to be fraudulent by the HKSAR Government shall have their residence status invalidated and shall be removed, regardless of their years of residence in Hong Kong.

The daily quota of OWPs is 150 at present. There are views that the quota for OWPs is in excess, while some advocate family reunion, demanding early settlement of Mainland family members of Hong Kong residents in Hong Kong. Setting a quota will allow family members of Hong Kong residents residing in the Mainland to settle in Hong Kong in an orderly manner. In addition, it ensures that complementary measures including healthcare, housing, welfare, education, and so on, can aptly meet their needs for settlement in Hong Kong.

The HKSAR Government always attaches great importance to the views of various sectors of the society concerning Mainland residents settling in Hong Kong, and exchanges views with the Mainland authorities on the approval of OWPs. Through meetings and exchanges, relevant bureaux and departments maintain close liaison with the Mainland authorities, such as the Bureau of Exit and Entry Administration of the Ministry of Public Security and the Hong Kong and Macao Affairs Office of the State Council, to convey aspirations of various sectors in Hong Kong and exchange views. Having considered suggestions from the HKSAR Government and various sectors of the society, the Mainland authorities have adjusted and refined the OWP Scheme from time to time. For example:

- Since May 1997, the Mainland authorities implemented a point-based system, setting out open and transparent approval criteria. The Mainland authorities assess the eligibility and priority of applicants with reference to these criteria, update annually the "eligibility points" required for approval of the OWP application and announce the updates through media and Internet;
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- Since 2001, the unused places under the sub-quota for long-separated spouses have been allocated to spouses separated for a shorter period and their accompanying children. With effect from October of the same year, Mainland children adopted by Hong Kong

residents can apply for OWP; and the age limit for OWP applications of unsupported children was relaxed from 14 to 18;

- Since 2003, the age limit for OWP applications of accompanying children of separated spouses was relaxed from 14 to 18. The restriction that only one accompanying child was allowed was also removed; and
- Before 2005, separated spouses in Guangdong had to meet a higher level of "eligibility points". Generally, their waiting time was six and a half years or more *vis-à-vis* around five years for those in other provinces and cities. In 2005, the "eligibility points" for OWP applications of separated spouses in Guangdong were relaxed. Their waiting time was shortened to five years, in line with that of other provinces and cities. In 2009, the "eligibility points" for OWP applications of separated spouses were further relaxed, thereby shortening their waiting time to four years.

As regards the last part of the question, one of the objectives put forward by the Chief Executive in his manifesto under the chapter on "My Pledge on Population and Human Resources" is to plan for the medium- and long term supply and demand of human resources, including professionals and technicians, and formulate settlement and admission of talent policies, while reserving unto the Government the authority to screen and approve newcomers to our shores. Specific proposals include improving the capital investment immigration policies, undertaking promotional activities, which highlight Hong Kong's appeal, overseas and in the Mainland to attract talents, and supporting new arrivals, and so on. The HKSAR Government is implementing the respective proposals.

As for the importation of talents, one of the objectives of the immigration policy of the HKSAR Government is to attract talents and professionals from around the world to come to Hong Kong with a view to enhancing the international competitiveness of Hong Kong and its position as Asia's world city. At present, the HKSAR Government has put in place a number of relevant immigration policies, including General Employment Policy, Admission Scheme for Mainland Talents and Professionals, Quality Migrant Admission Scheme and Immigration Arrangements for Non-local Graduates. The conditions and requirements of such policies are set by the HKSAR Government. Since the

reunification, 460 000 talents and professionals from around the world have come to work in Hong Kong.

We will keep in view the suggestions from various sectors of the society and the interests of the local community. We will continue to exchange views with the Mainland authorities on the overall usage of OWP quota, and reflect to them the aspirations of society, as well as to consider and examine the need to adjust the immigration policies on talent admission in the light of social developments.

MR SIN CHUNG-KAI (in Cantonese): *President, I wish to follow up on the last few paragraphs of the main reply concerning implementing the objectives in the Chief Executive's manifesto. Regarding the words "[reserve] unto the Government the authority to screen and approve newcomers to our shores" in the Chief Executive's manifesto, does the Secretary consider that the screening and approving of OWPs is not included, or is it that the Administration does not intend to fight for the approval authority of OWPs?*

SECRETARY FOR SECURITY (in Cantonese): President, I stated at the outset of my main reply that the OWP Scheme is regulated under Article 22(4) of the Basic Law, and Mainland residents come to Hong Kong on OWP for family reunion. Hence, the vetting and approval of their applications fall within the remit of the Mainland authorities. In its interpretation of the Basic Law in 1999, the Standing Committee of the National People's Congress clearly stated this point. It was also clearly stated in Section XIV of Annex I to the Sino-British Joint Declaration that "Entry into the Hong Kong Special Administrative Region of persons from other parts of China shall continue to be regulated in accordance with the present practice." This is a solemn pledge in the Sino-British Joint Declaration concerning the principle of "one country, two systems". This practice is time-honoured and proven effective. Hence there is no question of taking back the power.

PRESIDENT (in Cantonese): Mr SIN, has your supplementary question not been answered?

MR SIN CHUNG-KAI (in Cantonese): *President, the Secretary has not answered my question. In his main reply, the Secretary has quoted from the Chief Executive's manifesto, "to plan for the medium and long term supply and demand of human resources, including professionals and technicians, and formulate settlement and admission of talent policies, while reserving unto the Government the authority to screen and approve newcomers to our shores." Does the Secretary mean that while the Government reserves "the authority to screen and approve," it does not reserve the authority to screen and approve OWPs?*

SECRETARY FOR SECURITY (in Cantonese): *If Mr SIN reads the relevant part in the manifesto, he will see that the Chief Executive's specific policy platform has been listed under the relevant objective. The objective mentioned by Mr SIN is quoted from the manifesto and I have the manifesto on hand. There are altogether 25 points. Point 18 stipulates the measures that we take concerning the new arrivals on OWP from the Mainland, which is, to "co-operate with non-profit-making organizations and volunteers to provide more systematic follow-up services for one-way permit holders newly arriving from the Mainland to understand their needs, help solve their problems and facilitate their integration into the local community." The OWP Scheme has all along performed a very important function, which is to facilitate Mainlanders to come to Hong Kong for family reunion in an orderly manner, so that the Hong Kong Government can provide them with timely and appropriate assistance to help them integrate into society.*

MR CHAN KIN-POR (in Cantonese): *President, in the main reply, it was pointed out, "Persons whose application is found to be fraudulent by the HKSAR Government shall have their residence status invalidated and shall be removed, regardless of their years of residence in Hong Kong." I would like to ask as there have been many reports about people applying for residence in Hong Kong after engaging in bogus marriage, what measures have the authorities put in place to crack down on such cases of bogus marriage?*

SECRETARY FOR SECURITY (in Cantonese): *President, we have learned from press reports that the problem of bogus marriage is not only restricted to applicants for OWP, but also people of other nationalities who apply for*

residence in Hong Kong on grounds of family reunion in accordance with the relevant policy. To look further, all countries have this problem. Concerning the work in this regard, the Immigration Department (ImmD) attaches great importance to it and has set up a special investigation team to conduct in-depth investigation into any suspicious cases reported or discovered by us.

Let me cite some statistics. Between February 2007 and December 2013, the ImmD handled a total of 5 544 cases involving 11 164 persons. After thorough and long-term investigation, the ImmD arrested a total of 7 061 persons and among these persons, it had sufficient evidence to bring prosecution against 1 537. In general, the Court metes out severe punishments to such cases and all those convicted have to serve various imprisonment terms, depending on the nature and severity of the crimes involved. It is not easy for the ImmD to deal with such cases as they require plenty of hard work in gathering evidence, but they have accumulated years of experience and hence have been able to successfully prosecute over 1 000 persons, as I mentioned earlier.

Of course, successful prosecution has been brought against two groups of people, one being Hong Kong residents and the other those who have engaged in bogus marriage. If people coming from a foreign country obtain Hong Kong residence by way of bogus marriage, since their marriage is bogus, their residence status in Hong Kong is obtained by illegal means or fraud. The ImmD will follow up and invalidate their residence status and remove them from Hong Kong. Of course, the person facing removal has the right to appeal and even apply for a judicial review, and we have a set procedure to deal with such cases.

MR ALBERT CHAN (in Cantonese): *President, the OWP arrangement was initiated by the British Hong Kong Government during the 1980s and was later implemented through the Sino-British Joint Declaration and Basic Law. The OWP arrangements have been in force for over 30 years now. Similar to the immigration policies of many countries, any arrangement under the immigration policy has great impact on society, especially the current arrangement which involves a daily quota of 150 OWPs. At present, Hong Kong people have great anger and resentment against this quota which has been forced on them, as great pressure is imposed on various aspects of life in Hong Kong, including social welfare, healthcare, economic and housing ...*

PRESIDENT (in Cantonese): Mr CHAN, please raise your supplementary question.

MR ALBERT CHAN (in Cantonese): ... *I understand that this is a requirement under the Basic Law, but I would like to ask the Secretary what measures and mechanism the Government has put in place to deal with this quota, so that Hong Kong does not have to be forced to accept the quota of 150 per day. Or does the Government resign itself to destiny and admit that it is incompetent, such that it is ready to accept this quota forced on it?*

SECRETARY FOR SECURITY (in Cantonese): President, I totally disagree that we are forced to accept the quota as Mr CHAN claims. The OWP Scheme was established during the 1980s. It has a very long history. At first, the number of people allowed to come to Hong Kong was 50 per day; and in 1982, it was raised to 75 after negotiation between both sides. Why the increase? The reason was simple. Many people from Hong Kong got married in the Mainland and raised a family there. They wanted their wives and children to come to Hong Kong for reunion. That was a matter of need rather than forced acceptance.

Now marriages between Hong Kong residents and Mainlanders constitute about 35% of the total number of marriages in Hong Kong, which is not a small number. In 1993, owing to the need arose, both sides agreed to raise the quota to 105 and the quota was raised again to 150 in 1995 for family reunion. According to the latest analysis, out of these 150 places, 98% are for reunion with spouses and children and the rest are for reunion with unsupported elderly people and children. I absolutely do not agree that we are forced to accept this quota because every time the quota was raised, it was after negotiation between both sides in response to the needs in society.

I wish to point out that there are many strong views in society calling for us to attach importance to family reunion. On my way to this Complex from the Central Government Office, I saw several banners hanging in the square outside the Central Government Office petitioning for family reunion. In the last term of the Legislative Council, the Subcommittee to Study Issues Relating to Mainland-HKSAR Families set up under the House Committee held many meetings over a long period of time. In its report, the Subcommittee pointed out

that family reunion should be accorded priority in the population policy. In discussing the permission of overage children to settle in Hong Kong, members opined that their applications should be approved basing on objective criteria, such as length of separation. From this we can see that there is a strong view and aspiration in society for family reunion, which is very important. The OWP Scheme can provide a transparent and effective mechanism to bring Hong Kong residents' immediate families to Hong Kong for reunion. This effective mechanism, formulated in response to Hong Kong people's aspiration, allows Mainland residents to come to Hong Kong for family reunion in batches, by phases and in an orderly manner.

PRESIDENT (in Cantonese): Has your supplementary question not been answered?

MR ALBERT CHAN (in Cantonese): *President, does the Secretary admit that Hong Kong people are forced to accept this quota of 150 per day; that Hong Kong people are forced to continue to bear the consequences for the Government is incompetent to rectify and change this cruel arrangement?*

PRESIDENT (in Cantonese): Mr CHAN, please do not make arguments. The Secretary has already answered.

MR TAM YIU-CHUNG (in Cantonese): *President, those who do not have families in the Mainland may not feel strongly about family reunion in Hong Kong. In some of the cases that I received, complainants asked why people who married Taiwanese women could have their wives settle in Hong Kong immediately, while those who married Mainland women had to wait four or five years before their wives could come to Hong Kong for settlement. They also have their own views. I would like to ask the Secretary about the application of overage children for settling in Hong Kong, how many people are on the waiting list and the longest waiting time?*

SECRETARY FOR SECURITY (in Cantonese): I thank Mr TAM for his opinion to which I very much agree. As regards the quota of 150 per day for

family reunion, there have been some unused quotas in the past owing to the point-based system implemented in the Mainland. In response to the strong demand of many people concerning their overage children, after long negotiations with the Mainland authorities, the Government had introduced relevant measures. We have implemented three phases of the scheme and we will soon accept applications in Phase 4 on 10 February this year. In Phase 1, it was open to application by all eligible people whose parents came to Hong Kong in or before the end of 1979; in Phase 2, the cut-off date was 1980 and in Phase 3, 1981. The line drawn for Phase 4 will be two years later, at the end of 1983. For the past three phases, Mainland authorities have so far received 46 000 applications of which the initial vetting of 40 000 has completed. Among these 40 000 applications whose initial vetting has completed, 36 000 have been approved and OWPs are granted. Most of these people's OWPs will be valid for three months, but they will come to Hong Kong soon.

Under such circumstances, we will continue with the Scheme starting from the cut-off date at the end of 1984 until children, who were under the age of 14 when their father or mother obtained the identity card on or before 1 November 2001, may apply for OWPs if they are eligible. We estimate that there are tens of thousands of such children, and it will take us a while to absorb them. In respect of this policy of handling the applications in batches and by phases, its implementation has been smooth and we will continue to put in effort to use the unused quotas as far as practicable to allow eligible overage children to come to Hong Kong for family reunion as soon as possible.

PRESIDENT (in Cantonese): Six Members are still waiting to ask questions. However, as this Council has spent over 24 minutes on this question, we will now move on to the next question. Fifth question.

Offsetting Severance Payments and Long Service Payments with Accrued Benefits of MPF Schemes

5. **MR TANG KA-PIU** (in Cantonese): *Under the existing legislation, an employer is allowed to use the accrued benefits derived from the employer's contributions made to a Mandatory Provident Fund (MPF) scheme for an employee to offset the severance payment (SP) or long service payment (LSP) payable to that employee under the Employment Ordinance (the offsetting*

arrangement). Some employees have pointed out that the offsetting arrangement undermines the interests of employees and deprives them of retirement protection. In this connection, will the Government inform this Council:

- (1) *of the circumstances under which the authorities will abolish the offsetting arrangement; the considerations for deciding whether to abolish the offsetting arrangement in one go or by phases, and whether such factors include the impacts on the administrative costs and average expense ratio of the funds; if so, of the details; and*
- (2) *whether it will introduce MPF full portability in tandem with the abolition of the offsetting arrangement, and stipulate that the accrued benefits derived from the contributions made by the employers before the abolition of the offsetting arrangement can no longer be used in the offsetting arrangement; if it will, of the details; if not, the reasons for that?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, the arrangement of offsetting SP and LSP against MPF accrued benefits is a concern of the community. It involves the interests of various stakeholders, affecting both the retirement protection of employees and operating costs of employers. In fact, there are opposite views on the offsetting arrangement among different sectors of the community. While abolishing the offsetting arrangement could undoubtedly preserve the entire contributions from employers for employees' retirement in the future, there are also views in the community, including those from some employers' associations, which strongly oppose to the abolition. They consider that the abolition will not only greatly increase their operating costs, but will also have adverse impact on their budget if they are not allowed to use their contributions in the past decade or so to offset SP or LSP. The change will cause pressure for employers, especially small and medium enterprises (SMEs), and may even affect employees' terms of employment and job opportunities, ultimately jeopardizing employees' interests. Moreover, there are various options in taking forward the phased-abolition of the offsetting arrangement, each with varying impact on employers and employees. Therefore, we would need to listen to the views of different sectors, consider and examine the issue in a holistic and careful manner.

Mr TANG also expressed concern about MPF full portability, which is one of the various measures to improve the MPF System. The Government and the Mandatory Provident Fund Schemes Authority (MPFA) are pursuing various measures to lower MPF fees, increase employees' autonomy in choosing MPF funds, and assist them in making suitable choices. They include the following:

- (1) The Employee Choice Arrangement (ECA) which came into operation in November 2012, allows employees greater autonomy in choosing MPF schemes. In the period from the commencement of ECA to 31 December 2013, the management fee of 34% of MPF funds (that is, 163 MPF funds) have been reduced by up to 44% or 80 basis points. As the fund expense ratio is calculated on the basis of the data of the previous financial year, the latest published ratio of 1.7% does not fully reflect the effect of fee reduction;
- (2) The MPFA has provided a list of low-fee funds (with management fee not exceeding 1%, or fund expense ratio not exceeding 1.3%) on its website since December 2012. Since the publication of the list, there has been an increasing number of MPF schemes offering low-fee funds. As of December 2013, there are 148 low-fee funds (accounting for about 31% of the total number of funds). Except for those MPF schemes which will soon be merged, all MPF schemes will offer at least one low-fee fund that invests in equity and/or bonds by early 2014;
- (3) On achieving greater economies of scale for MPF funds and reducing trustees' operating costs, two trustee companies have responded to the MPFA's appeal by applying for the merging of two of their schemes into one, which is expected to be completed in early 2014. The MPFA anticipates that another 30 to 40 existing MPF funds will cease operation by end 2014. As a result of the promotion of the MPFA, MPF trustees received about 14 500 applications from scheme members for consolidating their personal accounts from end March 2013 to mid-December 2013. Meanwhile, the MPFA is following up with trustees on other measures to streamline the administrative procedures;
- (4) Last year, I proposed to conduct consultation on proposals to rationalize MPF fund types and achieve a major reduction in MPF

fees. After thorough examination, we consider that the most effective and pragmatic approach is to introduce a "core fund" as a default fund in each scheme to facilitate those scheme members who do not have time nor expertise in fund selection, to choose MPF funds which align with the objective for retirement protection. The proposed "core fund" will be subject to fee control and based on a long-term investment strategy which balances investment risk and return. We aim to conduct public consultation on the proposal in the first half of 2014; and

- (5) It has been our objective to allow scheme members full control of their MPF investment. The MPFA is studying various proposals to implement MPF full portability and the necessary supporting measures such as the establishment of a central database. The MPFA plans to submit its recommendations to the Government by end 2015.

MR TANG KA-PIU (in Cantonese): *I am definitely not satisfied with the Secretary's reply. My question is very clear. What I ask is how the authorities deal with the offsetting arrangement and the factors for consideration. But the Secretary's reply gives us the impression that the Government is still considering whether to honour the Chief Executive's manifesto and deal with the offsetting arrangement. The authorities have no strategy nor timetable in this regard, and have not taken any step to start. President, during the Question and Answer Session on 18 January, the Chief Executive indicated that even though he does not talk about it, it does not mean that he will not do it. He also said that he would solve or deal with the issue on the offsetting arrangement within his term of office. However, Executive Council Member Mrs LAW indicated last Sunday that the Government had conducted studies in this regard which was already regarded as having the job done and the manifesto honoured, and therefore such issue might not necessarily be handled within this term of office. May I ask the Secretary whether the view of this Executive Council Member represents the Government's stance?*

PRESIDENT (in Cantonese): Which Secretary will reply? Secretary for Financial Services and the Treasury, please reply.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, the Chief Executive had indicated in the Legislative Council his desire to gradually fulfil his pledges made to various sectors and classes in his manifesto within the five-year term of office. This also represents the Government's stance. As pointed out in my main reply just now, the offsetting arrangement is a complicated issue which involves the interests of various stakeholders and causes far-reaching effects to employees and employers, especially SMEs. Therefore, we would need to listen to the views of different sectors before we decide the way forward and the plan ahead.

PRESIDENT (in Cantonese): Has your supplementary question not been answered?

MR TANG KA-PIU (in Cantonese): *The Secretary has not answered my supplementary question. What I ask is whether the view of Mrs LAW, that is, the conduct of a study is tantamount to having the job done, represents the stance of the SAR Government.*

PRESIDENT (in Cantonese): Secretary, do you have anything to add?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): In my view, only the remark by the Chief Executive represents the Government's stance.

MR FRANKIE YICK (in Cantonese): *President, the Government said in its reply that there are opposite views on the offsetting arrangement in the community and therefore the authorities would need to listen to the views of different sectors, consider and examine the issue in a holistic and careful manner. The Liberal Party agrees very much with this point, because the arrangement was introduced more than a decade ago with the enactment of the existing legislation and with the consent of the Government, employers and employees.*

In the last paragraph of the main reply (that is, part (5)), it is advised that the MPFA is studying various proposals to implement MPF full portability and

plans to submit its recommendations to the Government by end-2015. President, if MPF full portability is implemented, employees may take the accrued benefits derived from the employer's contributions as well and invest them in other MPF schemes. On this premise, it will certainly involve a change in the amount that can be used by employers for offsetting payments. This is exactly the biggest worry of the business sector, especially SMEs, because they need to reserve another sum for SP or LSP, thus substantially increase their operating cost. May I ask the Government whether it already has a timetable and has decided to change or abolish the offsetting arrangement by end-2015? If there is no such action, with the continued existence of the offsetting arrangement, how is MPF full portability to be implemented?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): I thank Mr YICK for the supplementary question. The abolition of the offsetting arrangement is not a prerequisite for MPF full portability. The MPFA is studying various proposals to implement MPF full portability and the supporting measures, including the establishment of a central database mentioned in the main reply just now. It has been the established objective of the Government and the MPFA to allow scheme members full control of their MPF investment by implementing MPF full portability. The MPFA will submit to the Government the proposals to implement MPF full portability by end-2015.

PRESIDENT (in Cantonese): Has your supplementary question not been answered?

MR FRANKIE YICK (in Cantonese): *I am holding in hand a report from the Hong Kong Economic Times dated 31 October 2013 which highlights a remark made by a non-executive director of the MPFA, Mr WONG Kwok-kin, who once said that to implement MPF full portability, the first thing is to delink the scheme from the offsetting mechanism. I would like to know how the Secretary interprets such remark.*

PRESIDENT (in Cantonese): Secretary, do you have anything to add?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): I do not have anything to add. I would like to stress that the abolition of the offsetting arrangement is not a prerequisite for the implementation of MPF full portability.

MR POON SIU-PING (in Cantonese): *Just now the Secretary indicated that employers strongly oppose to the abolition of the offsetting arrangement. May I ask whether the Government, being the largest employer in Hong Kong, will consider abolishing the offsetting arrangement for its employees?*

PRESIDENT (in Cantonese): Which Secretary will reply? Secretary for Labour and Welfare, please reply.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, to my understanding, the Secretary for Civil Service had already replied a similar question a few days ago when he gave a briefing on the contents of the Policy Address. As far as I understand, the Secretary said at that time that the Civil Service system would be subject to the statutory position.

MR CHRISTOPHER CHEUNG (in Cantonese): *President, when the Chief Executive was asked about the arrangement of offsetting LSP against MPF at the Question and Answer Session after delivering his Policy Address, he advised that the issue must be considered and examined in a holistic and careful manner. In my view, this is the correct attitude and should be recognized. May I ask the Secretary whether the Government has borne in mind that the present MPF system and the offsetting arrangement were set up with the consensus reached by the Government, employers and employees? If the offsetting arrangement is to be abolished without the consent of the business sector, will this give people an impression of a lack of integrity on the part of the Government? Take the financial services sector which I represent as an example. Many SMEs have incurred losses rather than getting profits. No matter the offsetting arrangement is to be abolished in one go or by phases, these enterprises will find it difficult to afford the cost after the abolition. According to the estimation of the business sector ... as the rumours go, the operating cost will increase by as much as \$2 billion every year if the offsetting arrangement is abolished ...*

PRESIDENT (in Cantonese): Mr CHEUNG, you have already asked your supplementary question.

MR CHRISTOPHER CHEUNG (in Cantonese): *May I ask the Government whether it will assess the extra cost incurred to SMEs, the blow dealt to society and the economy as well as the number of SMEs having to shut down once the offsetting arrangement is abolished?*

PRESIDENT (in Cantonese): Which Secretary will reply? Secretary for Financial Services and the Treasury, please reply.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, I think Mr CHEUNG's views also represent those received by the Government from employers' associations, especially SMEs. The Government understands that changing the offsetting arrangement will certainly bring about far-reaching effects to employers, especially SMEs. On the other hand, there are also views from employees who think that certain improvement should be made to the offsetting arrangement. I can only say that we would listen to the views of different sectors, consider and examine various factors in a holistic and careful manner.

MR WONG TING-KWONG (in Cantonese): *President, when MPF was first introduced, the offsetting arrangement was one of the conditions agreed by both employees, employers and the Government, although Chief Executive LEUNG Chun-ying indicated in his manifesto that he would consider gradually lowering the offsetting ratio. May I ask whether the authorities have considered how to maintain the spirit of the agreement? Furthermore, have the authorities considered the amount to be borne by business starters once their business fails? Of course, when one starts a business, he should take into account his liability once the business fails. But will this create even more pressure on starting business?*

PRESIDENT (in Cantonese): Mr WONG, you have asked a number of supplementary questions. Which Secretary will reply? Secretary for Financial Services and the Treasury, please reply.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Just now Mr WONG has given a more thorough explanation on the worries of SMEs. This is exactly why we should listen carefully to the views of the community when we consider the matter in a holistic manner.

MR ANDREW LEUNG (in Cantonese): *President, the Chief Executive has stated in his manifesto that Hong Kong must take positive steps to expand its economic capacities, whilst maintaining vigilance on the possible impact on the SMEs and entrepreneurs arising from high operating costs. On the active support for SMEs, he has also indicated that an assessment on business environment for SMEs and small merchants should be performed before the establishment of new regulations. As we know, some people say that the Chief Executive has added the pledge of gradually abolishing the offsetting arrangement after the election. All these are the pledges he has made but these pledges are in conflicts with one another as they cannot be fulfilled at the same time. The offsetting arrangement was introduced by legislation with the consensus reached by the three sides, but now it is intended to abolish the arrangement. May I ask the government officials how the administration will handle this issue, will discussion be carried out in phases to collect views, or the arrangement will be incorporated in the manifesto and implemented in one go?*

PRESIDENT (in Cantonese): Which Secretary will reply? Secretary for Financial Services and the Treasury, please reply.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): We understand the concerns raised by the Member, which also reflects the different views in the community on this issue. It will definitely arouse much controversy if the offsetting arrangement is to be changed. Our present viewpoint is that given the controversies, we should listen carefully to various views. We will also make good use of the existing platforms to receive views from Members and the public.

MR TOMMY CHEUNG (in Cantonese): *President, just now the Secretary said the Government would listen carefully, but I am worried that the Government may selectively listen to those views that it likes but refuses to listen to our views.*

I agree very much with our colleagues who mentioned about our spirit just now. Recently SMEs have discussed about the offsetting arrangement whenever they meet, and in their view the issue is even more important than the constitutional reform. I am not sure whether this sounds good or bad to the Chief Secretary for Administration ...

PRESIDENT (in Cantonese): Mr CHEUNG, please ask your supplementary question.

MR TOMMY CHEUNG (in Cantonese): *President, I would like to follow up the supplementary question raised by Mr Frankie YICK which concerns about part (5) of the main reply. In replying the supplementary questions just now, the Secretary has repeated twice that the abolition of the offsetting arrangement is not a prerequisite for MPF full portability. However, he should remember that MPF semi-portability was introduced not long ago. At that time, it was decided to implement only "semi" portability in view that since employers' contribution may be used to offset payments, they should therefore have the right to choose the banks or funds for managing their contributions, as the loss of such contributions will have an impact on the capital available for offsetting purpose in the future. Given that the Secretary has indicated in the main reply that recommendations on MPF full portability will be submitted by end-2015, may I ask how he will address the problem of possible loss of employers' contributions that may be used for offsetting purpose?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, I thank Mr CHEUNG for his follow-up question to a supplementary question. The study on MPF full portability by the MPFA is carried out on the presumption that there will be the offsetting arrangement. The biggest concern of employers about MPF full portability is whether they can trace the accrued benefits derived from their contributions. The supporting measures under the study include the establishment of a central database to help employers trace the accrued benefits derived from their contributions. As such, the

presence of the offsetting arrangement will not hinder the implementation of MPF full portability.

PRESIDENT (in Cantonese): Has your supplementary question not been answered?

MR TOMMY CHEUNG (in Cantonese): *President, the Secretary has not answered my supplementary question because my question does not focus on tracing the contributions. Rather, upon the implementation of MPF full portability, if an employee places the contributions from both parties on funds that are deemed not sound enough by the employer, and if these funds collapse or incur total loss in the future, the employer will need to pay for the LSP out of his own pocket. That means the risks will be borne by employers ...*

PRESIDENT (in Cantonese): What is your supplementary question?

MR TOMMY CHEUNG (in Cantonese): *The Secretary is only evading this question, which does not only concern about the problem of tracing contributions but about whether employers have the choice.*

PRESIDENT (in Cantonese): Secretary for Financial Services and the Treasury, do you have anything to add?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, the problem raised by Mr CHEUNG is quite true and we have also considered this point. As such, the MPFA will also take these factors into consideration when it examines MPF full portability in a holistic manner.

MR CHUNG KWOK-PAN (in Cantonese): *President, MPF gives people the impression that it is unable to provide retirement protection. There are a number of reasons. One of them is the high management fees, and the other is poor investment, as mentioned by Members just now. May I ask the Secretary*

the average amount of management fee at present, whether the Government has any policy to lower the management fees, and who should be held responsible for the poor investment mentioned by Members just now?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, just now I mentioned in the main reply that according to the latest figures released, the average fund expense ratio amounts to 1.7%, which, to our understanding, the computation of this rate is based on the figures of the last financial year. As pointed out in the main reply, a number of funds have substantially lowered their fees in response to our recent measures. In our view, upon the implementation of a series of measures, we should be able to achieve the objective of gradually reducing MPF fees. Hopefully future figures can reflect this situation.

On the other hand, we are concerned about MPF fees and the investment choice of employees. We hope to achieve the original policy objective of the MPF scheme by enhancing the arrangements of the scheme. Therefore, I have mentioned in the main reply that we hope to add some designated funds or core funds as a default fund under the MPF Scheme, which will be subject to fee control. These funds will also meet our long-term investment objective. We hope that this approach can provide more appropriate investment choices for employees, and at the same time serve the purpose of fee control.

PRESIDENT (in Cantonese): Has your supplementary question not been answered?

MR CHUNG KWOK-PAN (in Cantonese): *No. President, many foreign countries ...*

PRESIDENT (in Cantonese): Mr CHUNG, please do not make further comments. If you think the Secretary has not answered your question, please repeat the part that has not been answered.

MR CHUNG KWOK-PAN (in Cantonese): *President, the Secretary has not answered how to lower the fees and guarantee that no loss will be incurred to those investments.*

PRESIDENT (in Cantonese): Mr CHUNG, the Secretary has already replied. If you are not satisfied, please follow up through other ways. A number of Members are concerned about the issues involved in this main question. Eight Members are still waiting for their turn to ask questions, but this Council has spent almost 23 minutes 30 seconds on this question. Last question seeking an oral reply.

Arrangements for Online News Media to Cover Public Activities

6. **MR CHARLES PETER MOK** (in Cantonese): *President, some journalists from media organizations operating Internet news websites (online media) have complained to me that government officers have repeatedly denied their coverage of public activities conducted by government departments, including press conferences, briefings and consultation sessions. Also, the Information Services Department (ISD) has refused online media's requests for registering with its News and Media Information System on grounds of limited capacity of the System, rendering them unable to receive press notices. They have also pointed out that only representatives from mainstream news media organizations are allowed to apply for Central Government Offices (CGO) Press Cards. As a result, journalists from online media may not enter CGO to carry out reporting duties. In this connection, will the Government inform this Council:*

- (1) *of the number of public activities conducted by the Government last year and, in respect of each activity, the average numbers of (i) people who could be accommodated in the press area(s), (ii) media organizations and their representatives attending the activity, and (iii) online media representatives who were denied access; the justifications of the Government for denying online media representatives' access for coverage of the activities; the qualification requirements for news media to be granted access for coverage of the activities as well as the criteria for granting*

approval, and whether the Government will review such requirements and criteria; if it will not, of the reasons for that;

- (2) of the maximum number of users that can be supported by the News and Media Information System of the ISD as well as the respective numbers of users and media organizations currently registered with the System; the procedure for media organizations to apply for registration with the System and the time required, as well as the relevant expenses of the Government; whether it will upgrade the System to accommodate more users; if it will, of the expenditure involved and the timetable; if not, the reasons for that; and*
- (3) given the provision in the media reporting arrangements in the Legislative Council Complex that if online media representatives can prove that their online news websites have covered Legislative Council news or have interviewed Legislative Council Members, they may apply for Temporary Admission Passes for entering the Complex to carry out reporting duties, whether the Government will make reference to such an arrangement and improve the arrangements for online media representatives to enter the CGO for carrying out reporting duties, so as not to hamper press freedom; if it will not, of the reasons for that?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, attaching great importance to the functions of the media in its pursuit of "people-based" governance, the HKSAR Government spares no effort in disseminating governance-related information to the public through the mass media and strives to facilitate their news reporting work.

We understand that the rapid advance in information technology has brought about profound changes to the media. With the threshold for creating a media platform substantially lowered by the prevalence of the Internet, almost everyone can set up a media website. This, coupled with the fast and ever-changing development of social networking websites and the diverse means of online dissemination of information, has made it difficult to get hold of the exact number of such media. Moreover, operating in different modes, such websites do not follow the traditional practice of the mainstream media. As regards the "online media" mentioned by Mr MOK, there is no universal or clear

definition in the community. The Government will pay close attention to the development of information technology and the changes of the media, thereby ensuring that media reporting arrangements can keep pace with times for the dissemination of information to the public in the most effective manner. Meanwhile, the Government also makes use of the Internet for strengthening communication, such as uploading press releases, press photos and news clips of the Government to the GovHK one-stop portal for public access and browsing around the clock, live broadcast of the whole course of major press conferences on Government websites, and setting up of webcasting archives for the browsing of the press conferences and other news clips.

My reply to the three parts of the question raised by Mr Charles Peter MOK is as follows:

- (1) The news media are usually invited to cover public functions, including activities of the Chief Executive and principal government officials, public forums, promotional activities, and important international/local conferences, organized by the Government. On top of that, activities such as visits to public facilities are organized exclusively for the media. There are also press conferences to answer media enquiries whenever major policies and measures are announced or major incidents have occurred. To meet the needs of the media as far as possible, government departments make arrangements for media reporting as deemed most appropriate, having taken into full account the overall situation, including capacity constraints, security requirements and on-site order. As various activities are different in nature, scale and mode, and use different venues, the number of media representatives each could accommodate may not be the same. Having said, government departments, in adhering to the principle of openness and transparency, will attend media interviews as far as possible for the purpose of enhancing public understanding of the work of the Government through media reporting.

We do not have statistics of the activities that are open for the media. Generally speaking, those media who may cover the abovementioned activities are media organizations engaged in news reporting, including:

(i) *Registered Printed Newspapers and Periodicals*

Newspapers and weekly news magazines registered with the Office for Film, Newspaper and Article Administration under the Registration of Local Newspapers Ordinance (Cap. 268, Laws of Hong Kong), as well as their associated websites.

(ii) *Radio Stations*

Government-funded radio broadcasters, and radio organizations that possess a Sound Broadcasting Licence granted under the Telecommunications Ordinance.

(iii) *Television Stations*

Government-funded TV broadcasters, and commercial TV broadcasters that possess a Domestic Free Television Programme Service Licence or a Domestic Pay Television Programme Service Licence or a Non-domestic Television Programme Service Licence granted under the Broadcasting Ordinance; as well as organizations that possess the Fixed Telecommunications Network Services Licence, Fixed Carrier Licence or Unified Carrier Licence issued under the Telecommunications Ordinance.

(iv) *News Agencies*

News agencies registered with the Office for Film, Newspaper and Article Administration under the Registration of Local Newspapers Ordinance, as well as news agencies, newspapers, magazines and television/radio on the list of "Overseas Journalists in Hong Kong" compiled by the Overseas Public Relations Sub-division of the ISD.

Regarding the "online media" mentioned by Mr MOK, in the absence of a legally binding registration or licensing regime as in the case of the mainstream media, we are not in a position to distinguish among a wide range of "online media", nor is it possible for us to grant access to all those which claim themselves as "online media"

for on-the-spot reporting as far as practical arrangements are concerned.

- (2) The registered or licensed mass media organizations mentioned above are users of the ISD's Government News and Media Information System (GNMIS). There are currently more than 100 registered media accounts and over 400 government department accounts in the GNMIS. Launched in 2005, the system is approaching the end of its usable life and, under certain circumstances, may incur risks of overloading. The ISD has commenced to renew the system, including re-designing its structure and enhancing its effectiveness, with a view to eliminating such risks as far as possible and make its service more effective and reliable. Moreover, to facilitate the operation of the media sector, the ISD will also make available to media organizations additional downloadable client software to enable automatic downloading of press releases, press photos, annexes, news clips, and so on. In the designing processes, we will consider the need of increasing the number of system users. The engineering works, which involve an expenditure of about \$9.95 million, are expected to be completed next year.

Procedures for user registration of media organizations are generally completed within one week. No fee is charged for such registration.

- (3) The Government will continue with its efforts to facilitate media reporting and pay close attention to the latest development of online media portals. Corresponding arrangements will also be reviewed from time to time with regard to the views of the relevant stakeholders and the practice of other organizations. The ISD has drawn up the arrangements for journalists to enter CGO for carrying out reporting duties having regard to factors such as venue conditions. Such arrangements have proven to be effective. The ISD will continue to maintain contact with media organizations and relevant stakeholders to listen to their views on improvement of news reporting arrangements at any time.

MR CHARLES PETER MOK (in Cantonese): *President, the Secretary pointed out in his main reply that there is no established definition and licensing regime for "online media". It is certainly not our wish for the Government to use licensing as a means of regulation. The Secretary also said that it is impossible to grant access to all online media. We are not asking the Government to grant access to all online media, but the problem is that none of them can obtain access at present. In fact, the Legislative Council has granted access to online media for on-the-spot reporting. Many online media representatives came here to attend the press conference held yesterday, their number was considerable and they have come from Hong Kong Island, Kowloon and the New Territories. The news reported by many online media organizations are frequently viewed by the public and the number of such viewers is even greater than the number of readers of traditional printed newspapers as listed in the reply. On the one hand, the Government said that it would enhance communication through the Internet and on the other hand, it has imposed various restrictions on online media. That is tantamount to saying only the Government is allowed to launch promotion through the Internet and public media reporting is prohibited.*

My supplementary question concerns the list of traditional media organizations provided by the Secretary, it turns out that the Government has not taken any follow-up actions. In the press conference held yesterday, a representative of the Passion Times told me that although they have already obtained a license under the Registration of Local Newspapers Ordinance, they were not granted access for on-the-spot reporting of the Chief Executive's Question and Answer Session on the Policy Address held last week. I would ask the Secretary: What are the reasons for that? Is that political censorship? Is it true that media organizations which often reprimand the Government will be denied access for on-the-spot reporting, notwithstanding that they are licensed and eligible media organizations?

SECRETARY FOR HOME AFFAIRS (in Cantonese): *President, we welcome media reporting. In the process of determining which media organizations will be granted access for on-the-spot reporting, political considerations have not been taken into account. Media organizations with different political views can enter the venue to carry out their news-reporting duties. The reality is there for all to see.*

We understand the views on online media expressed by Mr MOK just now. We are also fully aware of the development of the Internet, the trends of the media and the increasing impact of online media. We are aware of the situation and will pay close attention to the development. However, in response to Mr MOK's views, I would like to point out that we cannot arbitrarily grant access to some online media organizations and not the others. The Government has to lay down a set of objective and transparent criteria to define the term "online media", and determine which online media organizations can be granted access to the venue. We do not have this set of criteria at present and there is indeed no consensus in society as to whether online media organizations should be registered.

Mr MOK mentioned a media organization which has been registered as a newspaper in Hong Kong. If that organization has been registered as a newspaper and wishes to be granted access for on-the-spot reporting of government activities, it can make such an application. I trust that the ISD will process the application according to the established mechanism. I would like to explain clearly to Mr MOK that not all newspapers or weekly magazines will be granted access for on-the-spot reporting. The ISD would generally only grant such access to media organizations which focus on news reporting. Some media organizations only publish news in entertainment and sports or information on food. If the ISD considers that a certain media organization does not focus on reporting current affairs in which the public is interested, it may not accept its application for access for on-the-spot reporting.

MR CHARLES PETER MOK (in Cantonese): *President, I became more frightened upon hearing what has been said just now. If that is the case, the Government can make a decision unilaterally. President, I do not wish to express my opinions or debate on the topic at this juncture, but I think the Government can really make a decision in an arbitrary manner, whether objectively or subjectively. Therefore, I would like to ask the Administration to give an explanation of the abovementioned case through the President. Does the Government consider the Passion Times not to be engaging in news reporting? If the Secretary has the guts, just answer in the negative. I know I should not express my opinions, but I hope that it really ...*

PRESIDENT (in Cantonese): Please sit down, Mr MOK. Can you provide any further information on the case, Secretary?

SECRETARY FOR HOME AFFAIRS (in Cantonese): I can ask the ISD if they have any records of the case.

MR RONNY TONG (in Cantonese): *President, I find the written and oral replies of the Secretary very weird. On the one hand, he said that the development of social networking websites was fast and ever-changing and the development of online media was diverse; yet, on the other hand, he pointed out in part (1) of his main reply that the Government was not in a position to distinguish among a wide range of online media.*

President, I would like to ask the Secretary whether he considers that the Government has the responsibility to draw up transparent criteria for distinguishing which online media organizations are to be regarded as engaging in news reporting. President, only with such a set of criteria can the Government begin to distinguish which media organizations should be granted access for on-the-spot reporting and which media organizations should be allowed to approach officials and ask them questions. President, first of all, I would like to know if there is such a set of criteria. Should such criteria be drawn up? Is that the responsibility of the Administration?

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, such a set of criteria should not be drawn up unilaterally by the Government. In fact, the Government has never unilaterally drawn up any criteria in relation to the operation of the media, and imposed the criteria on the media for compliance. The reality is that the Government would discuss the criteria with the media or the criteria would have been formulated by the media organizations themselves. The current situation around the world is that the traditional media organizations or the new online media organizations mentioned by Mr MOK operate in different modes. Many factors for consideration are involved, for example, whether the online media organization is publishing news covered and reported by its staff every day and not only publishing journals of its writers, whether the online media organization has employed journalists who really engage in news reporting, with their main income coming from such work, and so on. As we

can see, there are different criteria. As far as Hong Kong is concerned, I believe whether such criteria and standards to be formulated should be subject to the mainstream opinion of the trade. The Government will certainly involve in the relevant discussions.

MR RONNY TONG (in Cantonese): *President, the Secretary has not answered my supplementary question. My question was not ...*

PRESIDENT (in Cantonese): Please repeat your supplementary question.

MR RONNY TONG (in Cantonese): *What I am asking the Government and the crux of the question is which media organizations the Government will grant access for on-the-spot reporting. May I ask the Secretary if he agrees with me that the Government should draw up criteria to distinguish which media organizations are to be granted access for on-the-spot reporting of government activities.*

PRESIDENT (in Cantonese): Secretary, does the Government have any criteria?

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, as online media is a new media which has emerged from technological development, the Government has not yet drawn up any new criteria in response to the current situation. If the Government is to formulate such a set of criteria, it will certainly make reference to the views of the press.

MR SIN CHUNG-KAI (in Cantonese): *President, the records show clearly that the Registration of Local Newspapers Ordinance was enacted in 1951. Certainly, some people would say that they were only one year old back then, and I was not even born. The Ordinance is surely outdated because one of the requirements stipulated is that all registered newspapers in Hong Kong should deliver a hard copy to the authorities every day. That is not environmentally friendly and at present, some ... I am not sure, but in the future, some newspapers may not have hard copy anymore and only soft copies will be available ...*

PRESIDENT (in Cantonese): Mr SIN, please raise your supplementary question.

MR SIN CHUNG-KAI (in Cantonese): *My supplementary question is: As the Registration of Local Newspapers Ordinance is still in force, some media organizations which are not radio stations, television stations or news agencies are not eligible to obtain access for on-the-spot reporting. The Government is only using the Ordinance as a shield. I certainly do not wish that all online media organizations have to be registered and can only carry out their work after permission is granted. That is surely not my intention. However, can a system of voluntary registration be put in place and a new category be introduced in response to the changes of the times? Can a system of voluntary registration be introduced as a standing practice ...*

PRESIDENT (in Cantonese): Mr SIN, what is your supplementary question?

MR SIN CHUNG-KAI (in Cantonese): *Will the Government review the Registration of Local Newspapers Ordinance which clearly only includes newspapers. However, apart from newspapers, some new media have emerged ...*

PRESIDENT (in Cantonese): You are still expressing your opinion. Please raise your supplementary question.

MR SIN CHUNG-KAI (in Cantonese): *My supplementary question is: Will the Government consider reviewing and amending the Ordinance to meet the needs of the time?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, according to my understanding, one of the objectives of the Registration of Local Newspapers Ordinance is to establish the objective existence of a newspaper. In the event of any disputes over a written press report leading to a cause of action for libel or other complaints, an objective record will be available as the basis of a legal

action. For this reason, the Chief Editor will sign a document after the newspaper is published every day to certify that the written publication will be the basis for determining the comments contained therein. If any legal liability is involved, the press report will be used as the basis of any legal action. It has nothing to do with political censorship, nor does it serve any purpose of control or screening. Hong Kong is a place which enjoys freedom of the press.

Speaking of online media, what should be used as the basis in case of any Internet crime of litigation arising from the written reports? As it is a new technological development, there is still no basis for determination.

MR SIN CHUNG-KAI (in Cantonese): *President, it is apparent that 62 years ago ...*

PRESIDENT (in Cantonese): Mr SIN, please repeat the part which you think the Secretary has not answered.

MR SIN CHUNG-KAI (in Cantonese): *The Secretary has not answered whether the Government will review and amend the Ordinance. He has not answered whether it will or will not do so.*

PRESIDENT (in Cantonese): Secretary, will the Government review and amend the Ordinance?

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, at present, we do not have any plan to amend the Registration of Local Newspapers Ordinance.

MR CHAN CHI-CHUEN (in Cantonese): *President, the Secretary has repeatedly used the word "new" to avoid answering the question and he said that media websites and web radios are new technological developments. Although these "new" things have existed for more than 10 years, the Government still told*

us today that they are "new". The Government's knowledge of technology is terribly outdated and it is technophobic. The Government said information technology has advanced rapidly, but how rapidly is it? Without the ability to handle such simple problems, the Government should not mention about setting up the Technology Bureau. The Government is technology illiterate. These things are not new technological developments ...

PRESIDENT (in Cantonese): Mr CHAN, please stop expressing your opinions.

MR CHAN CHI-CHUEN (in Cantonese): *Alright. The problem is, Mr Charles Peter MOK has raised three very detailed questions and although the Secretary has given a three-page reply, he could not even answer a simple yes or no question. In fact, the Legislative Council has granted access to certain web radios and media websites for on-the-spot reporting, and I could obtain a Press Card when I was one of the managerial staff of a website some years ago. Mr MOK asked whether the Government would make reference to the practice of the Legislative Council. The Secretary could have answered in the negative and said that the practice of the Legislative Council is too lenient and indulgent, or he could have answered in the affirmative, but he has not answered the question, President.*

PRESIDENT (in Cantonese): Mr CHAN, are you asking the Secretary to answer "yes" or "no" to part (3) of the main question?

MR CHAN CHI-CHUEN (in Cantonese): *Yes.*

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, I have responded to part (3) of the main question and I have nothing to add.

PRESIDENT (in Cantonese): This Council has spent about 22 minutes and 30 seconds on this question. Oral questions end here.

WRITTEN ANSWERS TO QUESTIONS**Impact of Shortening of Requirement of Residence in Hong Kong for CSSA Scheme**

7. **DR PRISCILLA LEUNG** (in Chinese): *President, the Court of Final Appeal (CFA) has earlier handed down its judgment on an appeal case, declaring that the requirement of seven-year residence in Hong Kong (residence requirement) stipulated by the Government for the Comprehensive Social Security Assistance (CSSA) Scheme was unconstitutional. As a result, the residence requirement must be restored to one year, that is, the requirement before 1 January 2004. The judgment has aroused extensive discussions in the community and quite a number of members of the public have expressed concern that the shortened residence requirement will attract a large number of Mainland people applying for settlement in Hong Kong who may apply for CSSA after one year, thus placing a heavy burden on the welfare expenditure of Hong Kong. In this connection, will the Government inform this Council:*

- (1) *whether it has assessed the number of Mainland people who will be attracted by the shortened residence requirement for the CSSA Scheme to apply for settlement in Hong Kong, and whether it will introduce measures to deter Mainland people from obtaining approval for settlement in Hong Kong through engaging in bogus marriages; if so, of the details; if not, the reasons for that;*
- (2) *given that the authorities have indicated that there will be an increase in the expenditure on the CSSA Scheme as a result of the shortening of the residence requirement, whether the authorities have plans to introduce targeted measures to ensure the continued stability and healthiness of the public finances of Hong Kong; if they have, of the details; if not, the reasons for that; and*
- (3) *given that quite a number of members of the public have pointed out that before formulation, public policies of significant public interests such as welfare and population planning have all been thoroughly considered and examined by the Legislative Council and the executive authorities from various aspects such as the long-term interests of Hong Kong, fiscal sustainability, policy objectives and legal principles, and so on, and extensive public consultation has*

often been conducted on them, but once such policies are ruled unconstitutional by CFA, they will become invalid or must be amended, which is a situation these members of the public consider as unsatisfactory, whether the Government has any improvement measures to ensure the stability and predictability of public administration?

SECRETARY FOR LABOUR AND WELFARE (in Chinese): President, my reply to Dr Priscilla LEUNG's question is set out below:

- (1) The policy objective of the One-way Permit (OWP) Scheme is to allow Mainland residents to come to Hong Kong for family reunion in an orderly manner. The current OWP quota is 150 per day. Whether or not new arrivals would apply for the CSSA mainly depends on the financial situation of their families and their interest in applying for CSSA. In fact, the education level and family income of new arrivals have been on a rising trend. For instance, the proportion of persons from the Mainland residing in Hong Kong for less than seven years aged 15 and above who have attained secondary education level or above increased from 68% in 2001 to 85% in 2011; while the proportion with post-secondary education level rose from 6% to 16%. Meanwhile, the median monthly domestic household income of households with member(s) from the Mainland residing in Hong Kong for less than seven years increased by nearly 20%, from \$12,050 to \$14,070, over the same period.

To combat cases involving non-Hong Kong residents obtaining permission to stay in Hong Kong through bogus marriages, the Immigration Department's special task force has been gathering intelligence through various avenues and conducting thorough investigation into suspicious cases. Persons involved will be arrested and prosecuted. The Marriage Registries under the Department have also been paying special attention to suspicious cases.

- (2) Fiscal prudence has been the guiding principle of the Hong Kong Special Administrative Region (HKSAR) Government on the management of public finances. Article 107 of the Basic Law

stipulates that the HKSAR shall follow three principles in drawing up its budget: first, keeping the expenditure within the limits of revenues; second, striving to achieve a fiscal balance and avoid deficits; and third, keeping the budget commensurate with the growth rate of its gross domestic product. We must observe fiscal prudence. Meanwhile, we also adhere to the principles of pragmatism, commitment to society and sustainability in managing public finances.

The Government has put in place a number of measures to enhance work incentive and alleviate poverty in recent years, for example, the Statutory Minimum Wage, Work Incentive Transport Subsidy and programmes under the Community Care Fund. These measures, coupled with a robust economy, a keen demand for labour and an increase in employment opportunities, have helped prevent our citizens from falling into the CSSA net.

Meanwhile, the Social Welfare Department has made every effort to guard against fraud and abuse of CSSA to ensure the effective use of public funds. Measures include establishing the fraud reporting mechanism, conducting in-depth investigations into suspected fraud cases as well as regular case reviews, and data matching with other government departments and relevant organizations to verify the authenticity of case information.

As at the end of December 2013, there were about 261 000 CSSA cases. The total number of recipients fell below 400 000, which was about 395 000. The caseload was the lowest since September 2002 and had been dropping for 33 months. This, to a certain extent, reflects that most Hong Kong people wish to be self-reliant.

- (3) In the process of formulating major welfare policies and initiatives, the Government will conduct in-depth analysis and suitably consult the public in order to holistically consider all relevant factors, including policy and financial considerations, and so on, and strike the right balance. The Government will continue to formulate policies and initiatives in accordance with this guiding principle.

Ex gratia Payments Awarded to Victims of Miscarriage of Justice

8. **MR DENNIS KWOK:** *President, it is learnt that in addition to the statutory compensation scheme under Article 11(5) in Part II (Hong Kong Bill of Rights) of the Hong Kong Bill of Rights Ordinance (Cap. 383), there is a practice of the Government awarding ex gratia payments on moral or compassionate grounds in certain exceptional cases of miscarriage of justice in which the Government is not legally liable. Such cases include but are not limited to those in which the claimant has spent time in custody following a wrongful conviction or charge resulting from serious default by the police or other public authority, notwithstanding the fact that the circumstances offer no grounds for any claim of civil damages. In this connection, will the Government inform this Council:*

- (1) of the respective numbers of applications for ex gratia payments approved and rejected in the past five years; the particulars of those approved cases, including the amount of payments awarded in each case as well as the reasons for some applications being rejected, if any;*
- (2) by which agency and with what criteria applications for ex gratia payments are assessed;*
- (3) of the number and particulars of the complaints received by the Government in the past five years about rejection of applications for ex gratia payments or about the amounts of payments awarded; and*
- (4) whether it has assessed if a conflict of interests may arise on the part of the Secretary for Justice and relevant government departments in the assessment of applications for ex gratia payments; if the assessment outcome is in the affirmative, whether the Government will make reference to the system in the United Kingdom and replace the current arrangement for processing such applications with a statutory scheme under which an independent assessor is appointed to consider the merits of the applications for ex gratia payments and determine the amounts of payments to be awarded; if it will, of the details; if not, the reasons for that?*

SECRETARY FOR JUSTICE: President,

- (1) The total number of applications for ex gratia payments under the administrative arrangement in the past five years is nine. Out of these nine cases, seven applications were rejected, one application was considered by the Solicitor General to fall within the guidelines (pending determination of quantum) and one application is pending determination. The case pending determination of quantum of ex gratia payment remains the subject of without prejudice correspondence between the Department of Justice and the applicant's legal advisers. The reason for the rejection of those seven rejected applications is that those cases failed to satisfy the relevant criteria set out in part (2) below.
- (2) The Solicitor General with the assistance of counsel within the Legal Policy Division of the Department of Justice is responsible for considering whether a particular case falls within the guidelines. The amount payable is determined by the Secretary for Financial Services and the Treasury, taking into account the views of the Department of Justice and any other affected department of bureau. The administrative guidelines for the payment of ex gratia compensation are as follows:
 - (i) Compensation may be payable to a person convicted of a criminal offence who has spent time in custody and has received a free pardon because his innocence has been established or his conviction has been quashed following a reference to the Court of Appeal by the Chief Executive or an appeal out of time.
 - (ii) Compensation may be payable where a person has spent time in custody following a wrongful conviction or charge resulting from serious default by the police or other public authority. For example, refusal of bail because of incorrect information given to the Court by the prosecutor or the police, or police suppression of material evidence which would have helped to exonerate a convicted person. Compensation may also be

payable on this basis where the wrongful act was that of a judge or magistrate but, to preserve the perceived independence of the judiciary, payment in such cases should only be made on the recommendation of the judiciary itself.

- (iii) Aside from guidelines (i) and (ii), compensation may be payable in outstandingly deserving cases even where the loss was not caused by a wrongful act or omission by a public authority.
- (iv) Compensation would not be paid simply because the prosecution was unable to prove its case beyond reasonable doubt in relation to a particular charge.
- (v) Compensation may be refused where there is serious doubt about the claimant's innocence, based on the argument that it would be repugnant to pay compensation out of public funds to a person who is probably guilty but, for example, whose conviction was quashed on a mere technicality.
- (vi) Compensation may be refused or reduced proportionately where the claimant is wholly or partly to blame for his misfortune; for example, he deliberately withheld evidence which would have demonstrated his innocence.
- (vii) From the perspective of public policy or administration, extending compensation beyond guidelines (i), (ii) and (iii) to persons who have suffered loss in the ordinary course of the criminal process (for example, to those to whom guideline (iv) applies) would have substantial cost and other resource implications. There would be a much larger number of potential claimants and a tribunal or some other special machinery would be required to investigate each case and distinguish the claimants who are very probably innocent from those who were lucky to escape conviction.

If the case falls within the guidelines, compensation would include:

- (i) Pecuniary losses
 - (a) Loss of earnings (including, where relevant, loss of future earnings).
 - (b) Losses and expenses reasonably incurred by the claimant's family.
 - (c) Any other ascertainable losses, for example, through forced sale of business assets rendered unusable by the claimant's conviction or punishment and investment income on money paid in fines.
 - (d) In so far as they have been borne by the claimant or his family and have not already been reimbursed, such legal expenses as he reasonably incurred in the original proceedings in which he was convicted.
- (ii) Non-pecuniary losses
 - (a) Loss of liberty.
 - (b) Damage to character and reputation.

The claimant may also be reimbursed the expenses, legal or otherwise, reasonably incurred by him in pursuing his claim for compensation. Interim payments of compensation may be made in suitable cases of amounts which total less than the minimum likely final award.

- (3) The Department of Justice does not keep statistics of the number and particulars of the complaints received by the Government in the past five years about rejection of applications for ex gratia payments or about the amounts of payments awarded.
- (4) As noted in part (2) above, applications for ex gratia payments under the administrative arrangement is handled by the Solicitor General with the assistance of counsel within the Legal Policy Division of the

Department of Justice. Where necessary, outside independent counsel's advice will also be sought. The Secretary for Justice is not involved in the consideration or determination process. In any event, in each application for ex gratia payment, the Department of Justice will assess whether a conflict of interests may arise on the part of the Secretary for Justice and relevant government departments. If the assessment outcome is in the affirmative, measures would be taken to avoid the potential conflicts such as briefing outside counsel to advise on the merits of the application.

As regards the United Kingdom scheme of compensation, we note that the United Kingdom's ex gratia discretionary scheme was abolished in 2006 and its current compensation scheme is confined to claims in accordance with Article 14(6) of the International Covenant on Civil and Political Rights. Moreover, the role of the independent assessor under the United Kingdom's current scheme is limited to the assessment of quantum (but not eligibility for compensation). As such, the Department of Justice will continue to follow the practice set out in the first paragraph of this part of the reply in processing applications for ex gratia payments.

Enforcement of Trade Descriptions (Unfair Trade Practices) (Amendment) Ordinance 2012

9. **MR RONNY TONG** (in Chinese): *President, some members of the public consider that although the Trade Descriptions (Unfair Trade Practices)(Amendment) Ordinance 2012 (Ordinance No. 25 of 2012)(the Amendment Ordinance) has been in full force since 19 July last year, advertisements alleged to be contravening that Ordinance are still very common at present. For instance, while the game pieces for food offers provided by a fast food chain in its lucky draw campaign were claimed to be applicable to "all extra value meals", such game pieces are in fact not applicable to three set meals of lower prices. In this connection, will the Government inform this Council:*

- (1) *whether it knows the numbers of relevant complaints received so far by the Consumer Council (CC) and the Customs and Excise Department (C&ED) respectively, with a breakdown by type of complaints and progress of follow-up actions;*

- (2) *of the respective numbers of cases of alleged contravention of the Amendment Ordinance so far in respect of which C&ED had (i) instituted prosecutions, and (ii) accepted the undertakings given by the traders concerned that they would cease the unfair commercial practices and decided not to institute prosecutions, with a breakdown by the commercial practice involved;*
- (3) *whether it has studied if advertisements alleged to be contravening the Amendment Ordinance are prevalent in the market at present; if the study outcome is in the affirmative, of the reasons for that, and whether the reasons include (i) inadequate deterrence because of the small number of prosecutions instituted by C&ED, and (ii) perfunctory law-enforcement by the authorities; whether it has plans to strengthen its efforts to combat such kind of advertisements in order to protect consumers' rights and interests; if it has, of the details; if not, the reasons for that; and*
- (4) *whether it has considered further amending the Trade Descriptions Ordinance (Cap. 362)(the Ordinance), with a view to protecting consumers' rights and interests more effectively; if it has, of the details and the timetable; if not, the reasons for that?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Chinese): President, the Amendment Ordinance came into full implementation on 19 July 2013. The scope of the Ordinance as amended by the Amendment Ordinance has been extended to cover both goods and services and to prohibit some commonly seen unfair trade practices, including false trade descriptions, misleading omissions, aggressive commercial practices, bait-and-switch, bait advertising and wrongly accepting payment. Convicted traders may be liable to a maximum penalty of imprisonment for five years and a fine of \$500,000. The Ordinance has also introduced a civil compliance-based mechanism to encourage compliance by traders and to stop identified non-compliant practices in a timely manner.

As the enforcement agencies, the C&ED and the Communications Authority (CA) have been actively handling relevant enquiries and complaints.

Enforcement actions are taken accordingly, on the basis of the facts and evidence of individual cases. The CC assists in resolving disputes by conciliating between complainants and traders concerned. The enforcement agencies and the CC have established a case referral mechanism, ensuring that enquiries and complaints received are handled effectively and effectively.

The Ordinance covers a wide range of goods and services. With a view to maximizing the effectiveness of enforcement actions, the enforcement agencies adopt a risk-based approach and the principle of effective resource deployment, under which priority is accorded to handling cases that may have a significant impact on consumers, the trade or the community. The enforcement agencies also consider all the relevant facts and evidence, and take into account the extent of co-operation that the traders have given in the investigation, whether the traders admit having engaged in the conduct of concern, the compliance record of the traders, and so on, in deciding the appropriate enforcement actions, including accepting written undertakings of the traders, applying for injunctions from the Court and instituting criminal proceedings.

My reply to the various parts of the question is as follows:

(1) and (2)

From 19 July to 31 December 2013, the C&ED, the Office of Communications Authority (OFCA) and CC received 2 051, 188 and 716 complaints respectively. A breakdown of the complaints according to the offences involved is set out below:

<i>Offence</i>	<i>C&ED</i>	<i>OFCA</i> ^{Note}	<i>CC</i>
False Trade Descriptions	1 303	53	364
Misleading Omissions	346	109	84
Aggressive Commercial Practices	63	4	117
Bait Advertising	85	1	46
Bait-and-switch	15	1	19
Wrongly Accepting Payment	199	59	86

<i>Offence</i>	<i>C&ED</i>	<i>OFCA</i> ^{Note}	<i>CC</i>
Others (for example, cases outside the scope of the Ordinance)	40	47	–

Note:

As some complaints received by OFCA involve more than one accusation of the suspected breach of the Ordinance, the total number of cases according to the offences involved is greater than the total number of complaints received.

The C&ED has, upon preliminary examination of 810 complaints, found no contravention of the Ordinance and closed the cases. For another 359 complaints, although evidence of breaching the Ordinance was not found, the C&ED has educated and advised the traders concerned, reminding them of the relevant provisions of the Ordinance and urging them to comply with the statutory requirements. Besides, the C&ED has launched detailed investigation into another 622 complains. The remaining complaints are either under initial examination or have been referred to other relevant departments for follow-up actions.

Concerning complaints of which detailed investigation has been completed, the C&ED has issued warning or advisory letters to the owner and sales staff concerned in 61 cases, urging them to comply with the statutory requirements. Meanwhile, the C&ED has instituted prosecution in six cases among which three involve false trade descriptions of goods or services and three involve misleading omissions. With the written consent of the Secretary for Justice, the C&ED has accepted the traders' written undertakings of ceasing the trade conduct concerned in two cases and did not institute prosecution.

Among the complaints received, the OFCA has, upon preliminary examination of 62 complaints, found no contravention of the Ordinance and closed the cases. For another three complaints, although evidence of breaching the Ordinance was not found, the OFCA has advised the traders concerned, urging them to comply with the statutory requirements. Besides, the OFCA has launched

investigation into another 123 complains. The CA has not initiated prosecution or accepted undertakings from traders yet.

Regarding CC, 552 complaints have been considered pursuable, among which 199 have been closed (186 have been settled upon CC's conciliation). Another 77 complaints have been referred to C&ED or other relevant organizations for follow-up actions. The remaining 276 complaints are still in the process of conciliation.

- (3) There are numerous types of consumer transactions involving different goods and services, and trade and promotion practices are changing. As stringent provisions and elements have been formulated for the offences concerning unfair trade practices under the Ordinance, the enforcement agencies could not readily determine whether a trader has contravened the Ordinance simply based on one aspect (such as an advertisement) of a trade practice, or it would be unfair to both the trader and consumers. As mentioned above, the enforcement agencies have been actively enforcing the Ordinance. They consider all the relevant facts and evidence, and adopt a risk-based approach and the principle of effective resource deployment, in deciding the appropriate enforcement actions.

Besides enforcement, the enforcement agencies have adopted a strategy with equal emphasis on prevention and education. Publicity and education activities on the Ordinance have been strengthened for traders. Briefings have been organized for different sectors, and proactive visits have been conducted for different traders, in a bid to help them understand and comply with the requirements of the Ordinance. Since the passage of the Amendment Ordinance by the Legislative Council, the enforcement agencies have held about 80 seminars and 400 outreach briefings. Moreover, the enforcement agencies in co-ordination with the CC have embarked on extensive publicity and education work through various channels, aiming to enhance the knowledge of traders and consumers about their rights and obligations under the Ordinance as well as the awareness of the concept of "Smart Shopping". Many traders have adjusted their trade practices for compliance with the requirements of the Ordinance. Consumers have an increased understanding of their rights and obligations.

- (4) The new criminal offences under the Ordinance tackle unfair trade practices at source and strengthen consumer protection. As the amended Ordinance has come into operation for only about half a year, we will keep in view the effectiveness of the Ordinance in combating unfair trade practices deployed in consumer transactions.

Consulting Residents' Views on Applications for Guesthouse Licences and Crackdown on Unlicensed Guesthouses

10. **MS STARRY LEE** (in Chinese): *President, earlier, a fire broke out at Continental Mansion, North Point, causing injuries to a number of residents and guesthouse guests of that commercial/residential building. It is learnt that despite the Deed of Mutual Covenant (DMC) of the building stipulates that operation of guesthouses above the third floor is prohibited, a number of guesthouses in the building have still been issued licences to operate in contravention of the DMC. On the other hand, there are also a number of guesthouses operating without licences in the building. The Secretary for Home Affairs has indicated earlier that the Government is considering conducting a review on the Hotel and Guesthouse Accommodation Ordinance (Cap. 349) (the Ordinance) which regulates guesthouses, and is examining issues in this regard, including more effective ways to enforce the law and combat unlicensed guesthouses, as well as the need to tighten up the requirements for issuing licences for guesthouses to operate in commercial/residential buildings. In this connection, will the Government inform this Council:*

- (1) *of the timetable and details of the review of the Ordinance;*
- (2) *whether it will consider setting up a guesthouse licensing committee with reference to the existing model adopted by the Liquor Licensing Board in handling new applications for liquor licences, and requiring applicants to place advertisements in local newspapers to give residents of the affected buildings an opportunity to give their views on the applications concerned to such a committee, so as to ensure that the interests of the residents will be taken into account when the authorities vet and approve applications for guesthouse licences;*

- (3) *whether it knows, apart from Continental Mansion, the current number of commercial/residential buildings with DMCs containing provisions restricting the establishment of guesthouses, and the distribution of such buildings in the territory;*
- (4) *of the number of inspections conducted by the Office of the Licensing Authority (the Office) under the Home Affairs Department (HAD) for combating unlicensed guesthouses, and the respective numbers of subsequent prosecutions instituted and convictions, in each of the past three years, broken down by District Council district; and*
- (5) *of the respective numbers of cases of unlicensed guesthouses uncovered by the Office through proactive inspections, posing as clients (commonly known as "snaking") and surfing websites for booking hotels and accommodations for visitors, in each of the past three years?*

SECRETARY FOR HOME AFFAIRS (in Chinese): President, operation of guesthouses in Hong Kong is regulated by the Ordinance. Under the Ordinance, any premises providing sleeping accommodation at a fee shall obtain a licence before operation unless all accommodation in the premises is provided with a tenancy period of 28 consecutive days or more for each letting. The Office of the Licensing Authority (OLA) under the HAD is responsible for the implementation of the Ordinance, including issuing licences and performing relevant enforcement duties.

My reply to Ms LEE's question is as follows:

(1) and (2)

The HAD has already kicked-start a review on guesthouse licensing procedures and the Ordinance with a view to enhancing the effectiveness of the OLA's enforcement action against unlicensed guesthouses, while striking a balance between maintaining room for the survival of licensed guesthouses and minimizing the safety hazards or nuisances posed to other residents. The HAD is actively exploring viable and detailed options and will widely gauge public views in the consultation exercise scheduled for mid-2014.

To let residents know as early as possible that a guesthouse licence application involving a premises of their building is submitted, the OLA will put in place a new arrangement under which it will, upon receipt of an application for a guesthouse licence (including a renewal application) and before the issuance of a licence, take the initiative to inform the owners' corporation (OC), residents' organization or property management company of the building concerned, and so on, and upload such information onto its website. The OC and the owners will therefore have sufficient time to examine the relevant provisions in the DMC and consider exercising the power conferred by the DMC to take appropriate action.

- (3) A DMC is a private covenant among the owners, the property manager and the developer of a building. Whether or not a DMC contains provisions that restrict the establishment of guesthouses involves interpretation of the provisions of a private covenant. In accordance with the Building Management Ordinance, interpretation of a DMC is under the jurisdiction of the Lands Tribunal. The Government is not the authority to interpret DMC provisions. The OLA does not have the information as requested.

(4) and (5)

When suspected unlicensed guesthouse operation is identified or such a report is received from the public, the OLA will conduct an inspection within eight working days, and will, having regard to the circumstances of individual cases, adopt the most appropriate and effective means for follow-up and investigation. Targeted action, such as conducting surprise inspections at different times (including non-working hours), launching large-scale and targeted inter-departmental operations, or posing as clients (commonly known as "snaking"), will be taken to collect evidence. Prosecution will be instituted by the OLA immediately if there is sufficient evidence that the premises concerned are involved in unlicensed guesthouse operation.

Noting the recent trend that some unlicensed guesthouses publicize and let out rooms through the Internet, the OLA has set up a dedicated Internet enforcement team to browse webpages, discussion

forums and blogs in a bid to search information and intelligence on suspected unlicensed guesthouses on the one hand, and appeal to tourists to choose patronizing licensed guesthouses on the other. Upon discovery of any information on unlicensed guesthouses, law-enforcement officers from the OLA will follow up and investigate into the case, including requiring the web hosts to remove such information from their websites. Moreover, the OLA makes it very clear to the websites concerned in writing from time to time that a licence is required for guesthouse operation in accordance with the laws of Hong Kong.

Figures of enforcement actions taken and prosecutions instituted by the OLA against suspected unlicensed guesthouse operation for the past three years, broken down by district corresponding to District Councils, are at the Annex. For successful prosecution against an unlicensed guesthouse, the OLA's law-enforcement officers shall employ various means in a flexible manner in order to gather intelligence and collect sufficient evidence. In this connection, we are not able to provide individual figures of successful prosecution under different categories such as proactive inspections, operations with officers posing as clients (commonly known as "snaking") and browsing of webpages for hotel and accommodation bookings.

Annex

Enforcement figures on inspection, prosecution and conviction against suspected unlicensed guesthouse operation (2011 to 2013)

District	2011			2012			2013		
	Inspection	Prosecution	Conviction ^{Note}	Inspection	Prosecution	Conviction ^{Note}	Inspection	Prosecution	Conviction ^{Note}
Islands	9	0	0	172	2	0	162	0	1
North	26	0	0	52	1	0	56	2	2
Sai Kung	17	3	2	61	2	2	43	1	1
Sha Tin	7	0	0	65	0	0	57	0	0
Tai Po	8	0	0	19	0	0	19	1	1
Tsuen Wan	79	1	1	206	0	0	205	3	2

District	2011			2012			2013		
	Inspection	Prosecution	Conviction ^{Note}	Inspection	Prosecution	Conviction ^{Note}	Inspection	Prosecution	Conviction ^{Note}
Tuen Mun	1	0	0	4	0	0	2	0	0
Yuen Long	40	6	5	57	4	4	49	4	3
Kwai Tsing	0	0	0	8	0	0	30	0	0
Central and Western	55	0	0	134	0	0	213	3	2
Wan Chai	526	4	3	1 073	7	7	2 120	16	15
Eastern	344	1	2	846	10	11	320	8	8
Southern	0	0	0	4	0	0	5	0	0
Kowloon City	47	1	1	323	8	6	497	8	8
Kwun Tong	29	0	0	94	0	0	122	2	2
Sham Shui Po	87	8	5	292	9	10	349	7	5
Wong Tai Sin	8	0	0	48	0	0	9	0	0
Yau Tsim Mong	1 842	29	20	3 333	85	70	5 631	116	111
Total	3 125	53	39	6 791	128	110	9 889	171	161

Note:

There was a slight difference between the figures of prosecution and those of conviction in the same year as some of the prosecution cases were heard in the following year.

Methods Used in Catching Stray Dogs

11. **MR ALBERT CHAN** (in Chinese): *President, it is learnt that in recent years, stray dogs often got injured or even died from struggling when they were being caught by the Agriculture, Fisheries and Conservation Department (AFCD). Some members of the public also point out that the methods used by AFCD in catching stray dogs are excessively cruel and outdated. In this connection, will the Government inform this Council:*

- (1) *of the number of stray dogs which were caught, as well as the respective numbers of dogs which were injured or died while being caught, in each of the past three years;*
- (2) *of the respective numbers of stray dogs which were euthanized or adopted among the stray dogs caught in each of the past three years; and*
- (3) *whether it will improve the methods of catching stray dogs in order to reduce injuries or deaths of dogs; if so, of the details; if not, the reasons for that?*

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, the Government attaches great importance to animal welfare and management. Our policy objective is to ensure that animals and people co-exist in a harmonious way. To target problems arising from nuisances caused by stray animals, the AFCD adopts the capture-and-remove approach, aiming at reducing nuisances at source and controlling the number of stray animals. The animal capture method adopted by the AFCD is approved by overseas countries and professional bodies. All front-line officers responsible for the work are professionally trained and have to follow the relevant guidelines strictly.

My reply to the various parts of the question is as follows:

(1) and (2)

The number of stray dogs caught, the number of abandoned dogs received by the AFCD, as well as the number of dogs reclaimed by their owners, re-homed and euthanized over the past three years are set out at Annex.

The experience of the AFCD shows that when dogs are being caught, it is their instinct to put up resistance by struggling and biting the dog-catching pole. The dogs may suffer from gum bleeding or minor oral injuries if they bite too hard. According to the AFCD, there is no record of serious injuries or death of dogs resulting from dog-catching exercises.

- (3) In their attempts to catch stray dogs, AFCD officers will adopt different methods in the light of the actual situation, in the interest of ensuring both the safety of front-line officers and the public, and the well-being of animals.

At present, AFCD officers mainly use dog-catching poles to catch stray dogs. This is a safe animal catching method approved by the World Health Organization and the World Society for the Protection of Animals. Dog-catching poles are made of strong and flexible rattan ropes, which minimize the chance of causing any unnecessary suffering to animals.

AFCD officers will also make proper use of snares to lure and catch stray dogs in cases involving a vast area or where the land form does not allow the safe use of dog-catching poles. The use of snares is brought in from Australia and approved by the Animal Welfare Advisory Group which comprises representatives from a wide spectrum of fields including veterinary science, animal welfare and management, the pet trade as well as other professions. Every time AFCD officers use the snare, they will put up notices at conspicuous places or fence off the affected area with warning tapes. Furthermore, AFCD officers will keep watch on the spot throughout the exercise to ensure that no passers-by or other animals will come close. Once a stray dog is caught, the officers concerned will immediately loosen the snare. The dog will then be transferred to a dog cage and delivered to an animal management centre of the AFCD for detention, observation and follow-up actions.

Before carrying out on-site actions, AFCD officers responsible for catching stray animals will be trained by leaders of the animal control teams in using the animal catching tools. The AFCD will also provide them with sufficient opportunities to practise animal catching strategies with the team members. They will be given the guidelines on handling and catching stray dogs and cats, which set out detailed instructions on catching stray animals. The officers must be well acquainted with the contents of the guidelines and strictly comply with them when conducting on-site actions.

The AFCD will review from time to time the methods adopted for catching stray dogs to ensure that animal welfare is sufficiently protected.

Annex

<i>Year</i>	<i>Stray dogs caught</i>	<i>Abandoned dogs received</i>	<i>Dogs received through other channels</i>	<i>Dogs reclaimed by their owners</i>	<i>Dogs re-homed</i>	<i>Dogs euthanized</i>
2011	5 800	2 403	1 445	1 517	852	6 561
2012	4 722	2 009	1 131	1 292	666	5 675
2013	4 626	1 871	1 271	1 379	770	5 353

Financial Position of Bureaux and Government Departments

12. **MR IP KIN-YUEN** (in Chinese): *President, regarding the financial position of various bureaux and government departments (B/Ds), will the Government inform this Council:*

- (1) *of the following figures in relation to the B/Ds whose unspent funds amounted to (i) 0 to 5%, (ii) 6% to 10%, (iii) 11% to 15%, (iv) 16% to 20%, and (v) 21% or more (rounded to the nearest whole percentage) of their approved estimates of expenditure in each of the past five financial years:*
- (i) *the approved estimates of expenditure;*
 - (ii) *the actual expenditure;*
 - (iii) *the difference between the approved estimates of expenditure and the actual expenditure;*
 - (iv) *the reasons for the funding not being fully utilized; and*

- (v) *the respective amounts of funds returning to the General Revenue Account (if applicable) (and set out in tables of the same format as the table below); and*

(Financial Year)

<i>The percentage of unspent funds in the approved estimates of expenditure</i>	<i>B/Ds</i>	<i>Approved estimates of expenditure</i>	<i>Actual expenditure</i>	<i>Difference</i>	<i>Reasons for the funding not being fully utilized</i>	<i>Amounts of funds returned to the General Revenue Account (if applicable)</i>
<i>0 to 5%</i>						
<i>6% to 10%</i>						
<i>11% to 15%</i>						
<i>16% to 20%</i>						
<i>21% or more</i>						

- (2) *whether the funding for B/Ds for the coming year will be reduced as there is unspent funding; if so, of the details?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Chinese): President,

- (1) The original estimate and actual expenditure of each head of expenditure are available in the Accounts of the Government submitted to the Legislative Council in November every year.

<i>Year</i>	<i>Accounts of the Government</i>	<i>Variance Analysis</i>
2012-2013	Pages 117 to 135	Pages 219 to 221
2011-2012	Pages 113 to 131	Pages 217 to 219
2010-2011	Pages 111 to 129	Pages 219 to 221
2009-2010	Pages 109 to 127	Pages 221 to 223
2008-2009	Pages 99 to 117	Pages 209 to 211

Except with the approval of Legislative Council Finance Committee or its delegated authority, no expenditure could be charged to any head in excess of the sum appropriated for that head by an Appropriation Ordinance. If the requirements are higher than expected, the relevant head of expenditure would seek supplementary appropriation. On the other hand, if the requirements are lower than expected, the actual expenditure would be less than the original estimate resulting in unspent provisions. In general, due to changes in requirements, there would be minor unspent provisions occasionally under expenditure heads with actual expenditure less than the original estimate by not more than 10%. For expenditure heads with expenditure higher than the original estimate by more than 10%, the reasons would be shown under the variance analysis by expenditure head in the Accounts of the Government.

The Government seeks provisions for each Head of Expenditure (usually corresponds to a government bureau, a branch of a bureau or a department) via the Appropriation Bill annually. After the passage of the Appropriation Bill, bureaux/departments would be allocated provisions being the expenditure ceiling in accordance with the approved estimates for providing various services. All receipts and payments are centrally processed under the General Revenue Account. Upon making payment to the payees by bureaux/departments, the relevant amount of money would be paid out of the general revenue. After the close of government account at year end, any unspent provisions still remain in the general revenue.

- (2) It has been our established practice that we make arrangements for the actual allocation of the operating expenditure envelopes in each financial year having regard to a host of different factors, including the overall financial position of the Government, the forecast requirements for existing services, the need for new and additional resources, percentages as well as amounts of the underspending.

Since 1999, we have introduced the Save and Invest (S&I) arrangement to encourage savings and efficient use of resources by departments. Under the current arrangement, we determine the

percentage of unspent provisions that can be carried forward as "S&I credits" having regard to the total amount of unspent provisions and the overall financial position of the Government. We then apply the percentage to the relevant unspent provisions of departments in arriving at the "S&I credits". The credits are allocated to the respective expenditure envelopes to which the departments belong for use in the new financial year.

Installation of Closed-circuit Television Systems in Public Places

13. **MS CYD HO** (in Chinese): *President, in April last year, the Privacy Commissioner for Personal Data published an inspection report in relation to the use of closed-circuit television (CCTV) systems by the MTR Corporation Limited (MTRCL) in the public areas of MTR stations and train compartments. The report pointed out that "CCTV-in-operation" notices displayed by the MTRCL in train stations and compartments were not conspicuous and provided inadequate information, there were inadequacies in the arrangements for the handling and destroying of footages (for example, certain footages were actually kept longer than the retention period prescribed by the MTRCL), and the sharing of the passwords of the CCTV systems among staff members of the Operations Safety Section heightened the risk of personal data leakage. Regarding the use of CCTV systems by public transport operators, government departments and public organizations in public areas, will the Government inform this Council:*

- (1) *whether it knows (i) the respective numbers of CCTV cameras currently installed by the MTRCL in the public areas of train stations along MTR lines and the Light Rail (LR) lines (and the number of train stations concerned respectively), and (ii) the respective numbers of CCTV cameras currently installed in the train compartments of MTR and LR (as well as the respective numbers of train compartments and trains involved); the number of the aforesaid notices displayed by the MTRCL and their specific wording, and the number of notices detailing the privacy policies of the MTRCL;*
- (2) *whether it knows the purpose of and criteria for the installation of CCTV systems by the MTRCL; of the criteria adopted by the MTRCL for determining the locations and angles of CCTV cameras to be*

installed, and why such cameras have been installed only in some trains and train compartments;

- (3) whether it knows the MTRCL's retention period of CCTV footages at present, and the way by which the footages will be deleted afterwards; of the departments to which the MTRCL staff who are authorized to inspect the footages belong and their ranks, and whether the resolution of the footages is high enough for the inspectors to recognize the faces of passengers; of the measures taken to ensure the footages are kept strictly confidential, and will not be duplicated, transferred or leaked;*
- (4) whether the government representatives on the Board of the MTRCL have monitored the implementation of privacy protection policies by the MTRCL;*
- (5) whether it knows which licensed or franchised public transport operators (including but not limited to companies offering tram, peak tram, bus, light bus and ferry services) have installed CCTV cameras in the public areas of their stops/piers, vehicle compartments, ferry cabins and other passenger facilities; of the guidelines and measures the authorities have put in place to regulate these organizations in terms of the locations of CCTV cameras to be installed, the way of handling footages, as well as the retention of such footages for a reasonable period only; and*
- (6) of the number of CCTV cameras installed by government departments and public organizations in the public areas of their facilities, with a breakdown by department/public organization; which departments are responsible for the installation, custody and operation of such cameras, and the retention period of the footages concerned; of the guidelines issued by the authorities to the relevant departments and public organizations regarding the installation of CCTV systems and the proper handling of footages?*

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, in April 2013, the Office of the Privacy Commissioner for Personal Data (PCPD)

published a report on the inspection of the CCTV systems used by the MTRCL in public areas of train stations and train compartments. The report concludes that the installation and usage of the CCTV systems by the MTRCL are reasonable and comply with the requirements of the Personal Data (Privacy) Ordinance (Cap. 486)(Ordinance) in general. The report also sets out some improvement recommendations, which the MTRCL is proactively following up. The MTRCL will implement the report's recommendations in phases, and will inform PCPD on the progress in due course.

My reply to various parts of Ms Cyd HO's question is as follows:

- (1) The number of CCTVs currently installed and used by the MTRCL in the public areas of train stations and train compartments are at Annex 1.

The MTRCL states that it strives to protect the privacy of passengers. Its installation and usage of CCTVs comply with the requirements of the Ordinance and the Guidance Note on CCTV Surveillance Practices (Guidance Note) issued by the PCPD in July 2010.

At the entrances of each MTR station, CCTV-in-operation notices are prominently displayed to inform passengers entering the station premises that CCTV surveillance is in operation. A notice has also been put up next to each CCTV camera inside train compartments that CCTV surveillance is in operation. The MTRCL has similarly put up notices on the notice boards at all platforms of LR stops. The wordings of these notices read:

"MTR CCTV in operation

CCTV surveillance cameras are in operation on these premises. The CCTV cameras on these premises are being used for security and surveillance purposes. For enquiries, please call 2881 8888."

Besides, the MTRCL has also prepared passenger information pamphlets, which amongst other things explains the details of the CCTVs used by the MTRCL.

- (2) CCTVs are installed within MTR premises (including station entrances/exits, concourses, entry/exit gates, platforms and train compartments, and so on) to manage passenger flow, monitor accidents and emergencies, deter crime and facilitate crime investigation, and so on.

According to the PCPD's report, installation of CCTVs should not unduly intrude upon personal privacy. No CCTVs should be installed in places where people expect to have privacy (for example, restrooms). The report points out that all CCTVs used in both public areas of station premises and train compartments are overtly (not obscurely) installed, and visible to commuters. The report also states that the MTRCL has obligations to investigate into railway incidents and to ensure passenger safety. Therefore, for operational purpose, there are reasonable grounds for installing and using the CCTV systems.

Currently, not all train compartments are installed with CCTVs. Only new trains purchased are fitted with CCTVs, which is an accessory equipment when the trains are manufactured. This is also a commonly adopted standard technical specification among international railway operators these days. The MTRCL does not have any plan yet to install the CCTV systems in trains currently without one.

- (3) According to the information provided by the MTRCL, the retention periods of CCTV footages stored in different MTR systems and locations, and the MTRCL's means of destroying the storage devices are at Annex 2.

The resolution of CCTV footages is set according to operational and security need. To ensure that the security effect is continuously put to good use, the MTRCL is of the view that it should not disclose information on the resolution of CCTV footages.

The MTRCL has put in place stringent monitoring procedures to restrict only authorized persons to view footages when necessary. In general, all requests for footage viewing or copying require

vetting and approval by responsible staff of managerial rank. Viewing and copying of the CCTV footages are to be arranged at designated locations.

- (4) As with government departments and other organizations, the MTRCL has to comply with the requirements of the Ordinance. In compiling its administrative handbooks, operational manuals, and so on, the MTRCL also makes reference to the Guidance Note. As mentioned in the preamble of this reply, the MTRCL will inform PCPD on the implementation of the improvement recommendations made by PCPD, and will report to the Board in due course. Due to the concern from PCPD and the public, the Government's representatives in the Board will keep watch over the relevant policies and implementation status by the MTRCL.
- (5) Vehicle owners or public transport service operators can install CCTVs on their own but such installation must not undermine driving safety. During routine vehicle examination, the Transport Department will check the CCTV installation on-board as well to make sure that it does not affect driving safety. The Government has also reminded the transport operators that the use of CCTVs must comply with the requirements of the Ordinance and make reference to the Guidance Note of PCPD.

Installation of CCTVs by various public transport operators is at Annex 3.

- (6) All government departments and public organizations make reference to the Guidance Note when installing and using CCTVs.

As for the details of the CCTV cameras installed by government departments and public organizations in public areas of their facilities, due to the vast extent of the information requested as well as the large number of government departments and public organizations involved, it takes time to collate all information which cannot be provided at this stage.

Annex 1

Number of CCTVs installed and used by the MTRCL
in public areas of train stations and train compartments

<i>Location</i>		<i>Number of stations/compartments with CCTVs installed</i>	<i>Number of CCTVs</i>
Public places within station premises	Heavy rail stations	84	3 253
	LR stops	22	89
Sub-total		106	3 342
Train compartments	Heavy rail compartments	408	816
	LR compartments	21	63
Sub-total		429	879

Annex 2

Retention periods of CCTV footages stored
in different MTR systems and locations and
the MTRCL's means of destroying the storage devices

(A) Retention periods

<i>System/Line</i>	<i>Retention period^(Note)</i>
Digital Video Recording (DVR) systems of all lines except East Rail Line, West Rail Line, Ma On Shan Line and LR	28 days
DVR systems and Video Cassette Recording (VCR) systems of East Rail Line, West Rail Line, Ma On Shan Line and LR	28 days
In-train CCTV footages of C-Stock trains of Kwun Tong Line	5 days
In-train CCTV footages of Disneyland Resort Line	10 days

Note:

All recording systems have their own fixed storage capacity. Footages will be overwritten by new recorded footages when the storage limit is used up and automatically recycled. Old footages will be automatically deleted. This cycle is the retention period of the footages. Depending on the storage capacity of the recording systems, the retention periods of CCTV footages vary. Besides, footages viewed by the MTRCL staff for the purpose of investigating into an incident/accident/complaint will have to be passed to the Operations and Occupational Safety Section afterwards for centralized storage for three years, so as to handle any possible legal questions.

(B) Means to destroy storage devices

<i>Form of storage</i>	<i>Means of erasure</i>
VCR tapes, CDs and DVDs	VCR tapes, CDs and DVDs will be destroyed to prevent recovery.
DVR files stored in hard disks, flash memory cards and USB thumb drives, and so on	Recorded images will be stored in a way rendering them unreadable, before the DVR hard disks are destroyed.

Annex 3

Installation of CCTV systems by public transport operators

Railway

Installation of CCTV systems in the public areas of MTR station premises and train compartments is detailed in parts (1) to (4) of the reply.

Franchised bus

Currently, there are around 5 700 franchised buses in Hong Kong, about 60% of which have CCTV systems installed in their compartments to facilitate bus captains to monitor the order and alighting situation of passengers. In addition, franchised bus companies have installed CCTV systems at 51 bus termini for more effective monitoring of the order of passengers and management of the operation of the bus fleet. Franchised bus companies have displayed notices at suitable locations to inform passengers that CCTVs have been installed.

Taxi

Installation of CCTV systems in taxi compartments by the taxi trade is not common. No CCTV has been installed at roadside taxi stands by the Government or the trade.

Public light bus (PLB)

Some PLB operators have installed CCTV systems in the compartments of their vehicles or at the termini of routes that they operate. Images captured by such

equipment are mainly to facilitate the operators to manage the order of passengers, monitor the passenger demand for corresponding service adjustments, ensure safety when vehicles are reversing or when passengers are boarding/alighting, and record the movement of the PLB concerned and other vehicles nearby.

Non-franchised bus

Installation of CCTV systems in bus compartments by the non-franchised bus trade is not common.

Ferry

CCTV cameras are installed at some ferry piers and on board ferries by major ferry operators in Hong Kong having regard to their operational needs (such as managing the order of waiting passengers and monitoring on-board facilities).

Tram

All of the existing 163 trams are installed with CCTV systems near the rear of tram compartments to facilitate the driver to monitor the order of boarding passengers and ensure their safety.

Public Works Projects Conducted Under Mode of New Engineering Contract

14. **MR TONY TSE** (in Chinese): *President, it has been learnt that the Government has adopted the mode of "new engineering contract" (NEC) since 2009 to draw up a number of public works contracts in order to enhance project efficiency and lower the costs. In this connection, will the Government inform this Council:*

- (1) *of the number of public works projects awarded by the Government which have adopted NEC (including construction and consultancy contracts) in each year since 2009; the following information of various projects: (i) the government departments involved, (ii) project titles, (iii) project locations, (iv) names of contractors and consultants responsible for the projects, (v) approved project*

estimates, (vi) actual project expenditures, and (vii) the latest progress of the projects;

- (2) of the criteria and factors of consideration for determining whether NEC is to be adopted for a particular public works project, and whether project price is one of the factors of consideration; the weightings of various criteria and factors of consideration in the decision-making process;*
- (3) as some small and medium sized contractors have criticized that the tendering system of NEC is not conducive to the participation of those contractors with less resources and lacking expertise in bidding for projects, whether the authorities have reviewed the tendering system; if they have, of the review results, as well as the measures to improve the tendering system of NEC in order to make the tendering procedure fairer and enable more small and medium sized contractors to participate in tendering; if not, whether they will conduct such a review as soon as possible; and*
- (4) whether it has conducted reviews on other aspects of NEC, including (i) the funding mechanism, (ii) objectives and (iii) effectiveness; if so, of the review results and the improvement measures proposed, and whether there is any impact on the attitude taken by the Government towards the adoption of NEC; if there is impact, of the details; if it has not conducted any review, of the reasons for that and whether it will conduct such a review in future?*

SECRETARY FOR DEVELOPMENT (in Chinese): President, the NEC form emphasizes mutual trust and co-operation between the contracting parties, and collaboration in risk management. It enhances the efficiency in contract management. The contract form is applicable to different types of engineering contracts, including construction contracts, maintenance contracts and consultancy contracts. It also provides various payment options that suit different needs, such as priced contracts, target contracts and cost reimbursement contracts, and so on.

Since 2009, the Development Bureau has adopted the NEC form in some public works contracts. They cover contracts of different types and works

categories and adopt different payment options of the NEC form, in order for Development Bureau to assess the performance of using this form in public works contract comprehensively.

We have consulted the construction industry extensively on our use of the NEC form and received general support. We will continue to keep in communication with the industry on this issue.

The NEC form has been used in Britain since 1993. It has also been used for many years in more than 15 other countries, including New Zealand and South Africa. Indeed, the British authorities concerned have recommended that public sector organizations use the NEC form when procuring construction works.

My reply to the four parts of the question is as follows:

- (1) The following table shows the number of construction contracts using NEC form awarded by us since 2009:

2009	1
2010	1
2011	0
2012	6
2013	2

Details of the relevant public works projects are shown in Annex 1.

To date, we have not awarded any consultancy contract using NEC form. But two consultancy contracts using this contract form are in the process of tendering/assessment and are expected to be awarded in the first half of 2014.

- (2) The NEC form advocates collaboration in risk management by the contracting parties. It introduces a risk management mechanism which includes risk mitigation measures such as early warning notification and risk reduction meeting. In deciding the adoption of NEC form for the public works contracts shown in Annex 1, we have considered a range of factors, including the risks that might arise in

the course of works, works scale, complexity, and schedule. In addition, to facilitate a comprehensive performance assessment, we have used NEC form in different works categories (including building works, civil engineering works, and so on), contract types and contracts of different prices.

- (3) The awarded construction contracts using NEC form were open to tendering by contractors of the highest group (Group C) on the List of Approved Contractors for Public Works. The tendering process for these contracts was smooth and the number of participating contractors was comparable to those tendering for conventional contracts. Hence, we consider that the contractors in this group have the requisite resources and expertise to engage in competitive tendering for contracts of this form.

In fact, there should not be much difference in terms of the resources required from contractors for tendering contracts of NEC form or conventional contracts.

With regard to training, we have been liaising with local training providers to ensure that there are sufficient training courses on NEC for the industry and we keep the industry informed about these courses. There are also forums and seminars organized by Development Bureau, works departments and relevant organizations for sharing knowledge and experience in NEC with the trade practitioners. We believe that the industry should already have many practitioners with the relevant knowledge.

Moreover, the works departments hold pre-tender briefings to help contractors understand the NEC form and the items to note in the tender exercise. When necessary, mock tendering exercises are also held by the works departments to assist contractors to understand the items that need special attention in the tender exercise.

In the light of the above, we consider that contractors in other groups on the List of Approved Contractors for Public Works should also be capable of bidding competitively for construction contracts using NEC form. As such, adopting NEC form would not undermine the fairness in tendering process.

- (4) To date, only one construction contract using NEC form has been completed and no consultancy contract using NEC form has been awarded. We need to use the NEC form in public works contracts more extensively to build up experience before a comprehensive review on its performance in various aspects in public works contracts can be conducted.

A steering committee under Development Bureau with members comprising representatives from Development Bureau, various works departments and Independent Commission Against Corruption is tasked with monitoring the implementation of NEC and taking timely follow-up actions as and when necessary. We will keep in communication with the industry and listen to their views.

According to our experience, adopting NEC form would not affect the funding mechanism for public works projects.

Annex 1

List of Projects with Construction Contracts Awarded using NEC Form

<i>Works Department</i>	<i>PWP Number and Title</i>	<i>Project Location</i>	<i>Contractor</i>	<i>Approved Project Estimates (\$ million)</i>	<i>Actual Project Expenditure (\$ million)</i>	<i>Works Start Date</i>	<i>Current Progress</i>
Drainage Services Department	4157CD Improvement of Fuk Man Road Nullah in Sai Kung	Fuk Man Road, Sai Kung	Chun Wo Construction & Engineering Co. Ltd.	95.8	92.8 ⁽¹⁾	August 2009	Works completed in 2012
Highways Department	6805TH Retrofitting of Noise Barriers on Fanling Highway (MTR Fanling Station to Wo Hing Road)	Fanling Highway (MTR Fanling Station and Wo Hing Road)	Chun Wo Construction & Engineering Co. Ltd.	247.1	⁽²⁾	November 2010	About 95% completed

<i>Works Department</i>	<i>PWP Number and Title</i>	<i>Project Location</i>	<i>Contractor</i>	<i>Approved Project Estimates (\$ million)</i>	<i>Actual Project Expenditure (\$ million)</i>	<i>Works Start Date</i>	<i>Current Progress</i>
Highways Department	6848TH Retrofitting of Noise Barriers on Tai Po Tai Wo Road near Po Nga Court	Tai Wo Road near Po Nga Court, Tai Po	China Harbour Engineering Company Limited	96.6	(²)	March 2012	About 60% completed
Drainage Services Department	4378DS North District Sewerage Stage 2 Part 2A - Pak Hok Lam Trunk Sewer and Sha Tau Kok Village Sewerage	Sha Tau Kok	Kum Shing (K.F.) Construction Company Limited	272.1	(²)	June 2012	About 20% completed
Drainage Services Department	4384DS Yuen Long and Kam Tin Sewerage, Stage 3 Package 2	Kau Hui and Shap Pat Heung, Yuen Long	Kwan On Construction Co. Ltd	213.4	(²)	September 2012	About 30% completed
Drainage Services Department	4160CD Happy Valley Underground Stormwater Storage Scheme	Happy Valley	Chun Wo Construction & Engineering Co. Ltd. ⁽³⁾	1,065.8	(²)	September 2012	About 25% completed
Drainage Services Department	4332DS Lam Tsuen Valley Sewerage, Stage 2	Lam Tsuen Valley, Tai Po	Hsin Chong Tsun Yip Joint Venture ⁽⁴⁾	588.3	(²)	October 2012	About 20% completed
Highways Department	6798TH Improvement to Pok Oi Interchange	Pok Oi Interchange, Yuen Long	Leader Civil Engineering Corp. Ltd.	264.8	(²)	November 2012	About 15% completed
Architectural Services Department	8073MM Tin Shui Wai Hospital	Tin Tan Street, Tin Shui Wai, Yuen Long	Leighton-Able Joint Venture	3,910.9	(²)	February 2013	About 20% completed

<i>Works Department</i>	<i>PWP Number and Title</i>	<i>Project Location</i>	<i>Contractor</i>	<i>Approved Project Estimates (\$ million)</i>	<i>Actual Project Expenditure (\$ million)</i>	<i>Works Start Date</i>	<i>Current Progress</i>
Water Supplies Department	9333WF Improvement of Fresh Water Supply to Cheung Chau	Cheung Chau	China Road - China Pipeline Joint Venture	254.8	(2)	October 2013	About 7% completed

Notes:

- (1) The expenditures include actual works expenditure and associated costs, including the costs of hiring resident site staff.
- (2) The works have not been completed.
- (3) Of the two contracts awarded under the project, one is a contract of NEC form awarded to Chun Wo Construction & Engineering Co. Ltd.
- (4) Of the two contracts awarded under the project, one is a contract of NEC form awarded to Hsin Chong Tsun Yip Joint Venture.

Embezzlement by Staff

15. **MR NG LEUNG-SING** (in Chinese): *President, in February 2008, a staff member of the Department of Health (DH) was convicted of embezzling \$13.71 million. The authorities indicated thereafter that the department had adopted measures to strengthen its internal control of payment and accounting procedures. According to the General Revenue Account as at 31 March 2013, the authorities are still recovering this sum of money. In this connection, will the Government inform this Council:*

- (1) *of the latest progress in recovering this sum of money, and why the sum has not yet been written off; and*
- (2) *whether it regularly examines if the department concerned has earnestly enforced the aforesaid measures to improve the internal control?*

SECRETARY FOR FOOD AND HEALTH (in Chinese): President,

- (1) The police commenced investigation immediately after the incident was discovered by the DH in 2007. The officer concerned was subsequently charged with false accounting and sentenced to five years' imprisonment in 2008. According to the information from the police, there was no evidence showing that the officer concerned possessed any valuable assets. In order to recover the sum embezzled, the DH took legal actions against the officer concerned and instigated civil proceedings in the High Court through the Department of Justice (DoJ). A judgment in favour of the Government was obtained in April 2010. Subsequently, the DoJ successfully obtained from the Court a bankruptcy order against the officer concerned in February 2011. The bankruptcy order is valid for four years during which the Official Receiver's Office will recover the arrears from the debtor in accordance with its established recovery procedures. Upon completion of all recovery procedures within the validity period and after exhaustion of all feasible means to recover the arrears the Government will proceed to write off the outstanding sum in accordance with existing procedures.
- (2) The DH has reminded all staff of its Finance Office of the need to strictly comply with government regulations and instructions in processing payments. In particular all officers involved in payment processing have been reminded to ensure that claims for payments are adequately supported, properly certified and correctly accounted. To this end, a comprehensive checklist on payment checking has been issued to provide the staff with practical assistance in dealing with matters relating to authorization of payment vouchers. Circulars have also been issued to provide a summary of major points to be observed by budget holders and subject officers in arranging payments. The checklist and the circulars are recirculated once every six months as a reminder for the staff concerned.

As a further safeguard, the DH has introduced sample post-payment checking by budget holders on selected payments charged to their votes. Its Internal Audit Section has also revised its work plan to

conduct more regular checks on payment vouchers and procedures to ensure that the checks and balances are functioning as anticipated.

Handling of Animals Received or Caught by AFCD

16. **MR GARY FAN** (in Chinese): *President, according to the Government's reply to a question raised by a Member of this Council last year, among the animals received or caught by the Agriculture, Fisheries and Conservation Department (AFCD) in each of the past three years, over 8 000 were euthanized (around 60%) and only 7% to 8% re-homed. In this connection, will the Government inform this Council:*

- (1) *of a breakdown, by the breed of the animals (such as mongrel, British shorthair, lop-eared rabbit, and so on), of the number of animals euthanized by the AFCD in each of the past three years;*
- (2) *of the respective expenditures incurred by the AFCD on taking care of the animals received or caught, as well as promoting re-homing of such animals in each of the past three years (including venue rentals and advertising fees);*
- (3) *of the voluntary animal welfare groups which have entered into partnership with the AFCD for the provision of animal re-homing service at present;*
- (4) *of the existing criteria adopted by the AFCD for determining which animal welfare groups to be chosen as partners in the provision of animal re-homing service, evaluating the effectiveness of collaboration and deciding whether collaboration with such groups will continue;*
- (5) *of the number of activities conducted by the AFCD to promote animal re-homing in the past three years, as well as the details of each activity, including the (i) date, (ii) name, (iii) form, (iv) organizer and supporting organizations, (v) number of animals involved, and (vi) number of the animals re-homed (set out in the table below);*

<i>Date</i>	<i>Name</i>	<i>Form</i>	<i>Organizer and supporting organization(s)</i>	<i>Number of animals involved</i>	<i>Number of animals re-homed</i>

- (6) *whether the AFCD conducted promotional activities in the past three years in collaboration with individual pet shops to promote animal re-homing; if so, of the details of each activity, including the (i) date, (ii) name, (iii) form, (iv) organizer and supporting organizations, (v) number of animals involved, and (vi) number of animals re-homed (set out in the table below); if not, the reasons for that; and*

<i>Date</i>	<i>Name</i>	<i>Form</i>	<i>Organizer and supporting organization(s)</i>	<i>Number of animals involved</i>	<i>Number of animals re-homed</i>

- (7) *given the space and resource constraints of the Animal Management Centres under the AFCD, whether the AFCD will, by making reference to the "Foster Parent Programme" of the Society for the Prevention of Cruelty to Animals, consider introducing a Foster Family Programme so that animals are given more time, and hence more chances, to get re-homed by members of the public; if it will, of the details and timetable of the programme; if not, the reasons for that?*

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, on the re-homing of animals, the AFCD has all along been working in close collaboration with animal welfare organizations and lending support where appropriate, including offering free neutering services to cats and dogs suitable for re-homing. Through the concerted efforts of all parties, the number of cats and dogs euthanized in recent years has been declining.

My reply to the various parts of the question is as follows:

- (1) Annex 1 gives the number of dogs, cats and other animals euthanized in the past three years. The AFCD does not keep a breakdown by the breed of the animals.
- (2) Annex 2 gives the expenditure incurred by the AFCD in receiving and catching animals as well as promoting animal re-homing in the past three years.
- (3) At present, the AFCD is partnering with a total of 12 animal welfare organizations in arranging re-homing for animals abandoned or surrendered. These organizations include the Society for the Prevention of Cruelty to Animals (Hong Kong) (SPCA), Society for Abandoned Animals (SAA), Hong Kong Dog Rescue, Hong Kong Rabbit Society, Hong Kong Society of Herpetology Foundation, Hong Kong Alley Cat Watch, Lifelong Animal Protection, HK Rescue Puppies, Lamma Animal Welfare Centre, Protection of Animals Lantau South, Sai Kung Stray Friends, and Asian & Hong Kong Dachshund Society.
- (4) The AFCD will consider a number of factors before deciding whether to co-operate with an organization in arranging re-homing for stray animals caught, including the scale of the organization's facilities, its experience and past records in animal keeping, performance in providing re-homing services (especially in areas including the vetting procedures, documentation and taking follow-up actions in re-homing cases), and whether the re-homing projects are non-profit-making in nature. The AFCD will keep the status of the organizations under regular review for determining whether to continue the co-operation.
- (5) The re-homing activities organized by the AFCD over the past three years together with relevant related information are set out at Annex 3. Apart from these re-homing activities, the AFCD also organizes various kinds of promotional activities every year, such as seminars at schools and public housing estates, roving exhibitions in different venues (including MTR stations) and joint educational

programmes with other organizations, with a view to promoting care for animals, adoption of animals and responsible pet ownership.

- (6) The AFCD has not co-organized with individual pet shops activities for promoting re-homing. The main purpose of promoting animal re-homing is to find a second home for stray animals or abandoned animals which are healthy and of a mild temperament so that they can be taken care of again. The AFCD considers it more appropriate to partner with non-profit-making animal welfare organizations in this regard.
- (7) For any mode of re-homing service (including fostering service), it is necessary to assess the suitability of a prospective adopter, the living environment available for animal adoption, and to take follow-up actions to see if the adopter is taking proper care of the animal. The AFCD considers it more appropriate for non-profit-making animal welfare organizations which are armed with the relevant experience and adopter network to provide such services.

Annex 1

<i>Year</i>	<i>Number of animals euthanized</i>		
	<i>Dogs</i>	<i>Cats</i>	<i>Others*</i>
2011	6 561	2 422	649
2012	5 675	1 950	1 160**
2013	5 353	1 861	1 015**

Notes:

* They include small mammals (rabbits, hamsters, chinchillas, guinea pigs and rats), pigs/cattle, poultry/birds and other animals (including those listed in the Convention on International Trade in Endangered Species of Wild Fauna and Flora).

** In the wake of the Psittacosis cases in 2012, the number of wild birds euthanized on grounds of public health increased in 2012 and 2013.

Annex 2

Year	<i>Expenditure of AFCD (HK\$ million)</i>	
	<i>Taking care of animals received and caught</i>	<i>Promoting animal re-homing</i>
2010-2011	1.7	0.4
2011-2012	2.0	1.5
2012-2013	2.1	2.1

Annex 3

<i>Date</i>	<i>Name</i>	<i>Form</i>	<i>Organizer and supporting organizations</i>	<i>Number of animals involved⁽¹⁾</i>	<i>Number of animals re-homed</i>
27/2/2011	"Be a Law-abiding Pet Owner" Carnival	Carnival	Organizer: AFCD Supporting organizations: SPCA, SAA and Animal Welfare Advisory Group	0	(2)
3-4/12/2011	"Show Your Love — Adopt a Pet" Carnival	Carnival cum adoption day	Organizer: AFCD Supporting organizations: SPCA, SAA, Hong Kong Dog Rescue and Lamma Animal Welfare Centre	20 dogs	
23/3/2012 26/3/2012	"Easter Bunny Adoption Day"	Adoption day	Organizer: AFCD Supporting organizations: SPCA and SAA	4 rabbits	
1/9/2012	"Pets Are Family Too" Dog Adoption Day	Adoption day	Organizer: AFCD Supporting organizations: SPCA, SAA, Hong Kong Dog Rescue and Lifelong Animal Protection Charity	20 dogs	
3-4/11/2012	"Pets are Family Too" Carnival cum Adoption Day	Carnival cum adoption day	Organizer: AFCD Supporting organizations: SPCA, SAA, Hong Kong Dog Rescue, Lifelong Animal Protection Charity and Sai Kung Stray Friends	25 dogs	

<i>Date</i>	<i>Name</i>	<i>Form</i>	<i>Organizer and supporting organizations</i>	<i>Number of animals involved⁽¹⁾</i>	<i>Number of animals re-homed</i>
30/12/2012	"Pets are Family Too" Pet Adoption Day	Adoption day	Organizer: AFCD Supporting organizations: SPCA, Lifelong Animal Protection Charity, Hong Kong Society of Herpetology/Hong Kong Society of Herpetology Foundation and Hong Kong Rabbit Society	5 cats, 8 rabbits, 20 amphibians and reptiles	
16-17/3/2013	"Amphibian and Reptile Adoption Day"	Adoption day	Organizer: AFCD Supporting organizations: Hong Kong Society of Herpetology/Hong Kong Society of Herpetology Foundation	20 amphibians and reptiles	
24/11/2013	"Pets with Love" Dog Adoption Day	Adoption day	Organizer: AFCD Supporting organizations: SPCA, SAA, Lifelong Animal Protection Charity and Lamma Animal Welfare Centre	20 dogs	

Notes:

- (1) Animals brought to the venue were for exhibition purpose only. They were not meant for adoption on the spot.
- (2) Members of the public who were interested in adopting the animals would contact the supporting animal welfare organizations direct after the activities. These organizations would go through the vetting procedures for adoption applications after the activities. The AFCD does not keep any statistics on the number of animals re-homed after individual adoption activity was held.

Mainland Residents with Criminal Records Coming to Hong Kong for Settlement

17. **MS CLAUDIA MO** (in Chinese): *President, it has been reported that some Mainland residents have been granted One-way Permits (OWPs) for settlement in Hong Kong even though they have criminal records in Hong Kong. In this connection, will the Government inform this Council:*

- (1) *of the number of Mainland residents with criminal records in Hong Kong or on the Mainland coming to Hong Kong for settlement each year since 1 July 1997, with a breakdown by the offence committed (for example, bribery, offences related to bogus marriage and the use of forged travel documents);*
- (2) *of the respective numbers of Mainland residents with criminal records in Hong Kong (including those who had not and had served their sentences) against whom the authorities had taken the following actions upon their entry into Hong Kong on OWPs, each year since 1 July 1997: (i) refusing entry, (ii) granting conditional or unconditional stay in Hong Kong for settlement, (iii) transferring them to prison for serving their sentences and deporting them from Hong Kong after serving their sentences, and (iv) transferring them to prison for serving their sentences and permitting them to settle in Hong Kong after serving their sentences;*
- (3) *whether the existing mechanism allows the authorities to exercise discretion to deal with such cases by ways other than those mentioned in part (2); if so, of the details;*
- (4) *given that the Government has stated that a notification mechanism is in place between the Mainland and Hong Kong to regularly provide the Mainland public security authorities with the particulars of those Mainland visitors who have breached the law in Hong Kong for follow-up actions, and such persons will not be issued travel documents (including OWPs) to come to Hong Kong within two to five years (period of non-issuance of permits), of the criteria based on which the Government and the Mainland authorities set the period of non-issuance of permits for various types of offences; whether it has conducted any review with the Mainland authorities on such notification mechanism; if it has, of the details; and*
- (5) *whether it will discuss with the Mainland authorities the establishment of a regular system to facilitate the authorities to check, upon the entry of Mainland residents to Hong Kong on OWPs, if they have criminal records in Hong Kong, and to refuse*

entry of those with such records who are still subject to restriction of the period of non-issuance of permits; if it will, of the details?

SECRETARY FOR SECURITY (in Chinese): President, pursuant to Article 22 of the Basic Law, for entry into the Hong Kong Special Administrative Region (HKSAR), people from other parts of China must apply for approval. The provisions of this Article, in accordance with the Interpretation by the Standing Committee of the National People's Congress in 1999, mean that Mainland residents who wish to enter Hong Kong for whatever reason, must apply to the relevant authorities of their residential districts for approval in accordance with the relevant national laws and administrative regulations, and must hold valid documents issued by the relevant authorities.

My consolidated reply to the Member's questions is as follows:

Mainland residents coming to Hong Kong for settlement must hold a valid OWP and go through immigration clearance. Immigration control officers have been exercising caution in handling immigration clearance of OWP holders. The Immigration Department (ImmD) does not maintain figures of OWP holders with criminal records in Hong Kong or the Mainland.

The HKSAR Government and the Mainland authorities have an established mechanism to prevent Mainland visitors from entering Hong Kong for activities that are in violation of regulations or illegal. The ImmD regularly passes information on Mainland residents who have committed an offence in Hong Kong to the Bureau of Exit and Entry Administration of the Ministry of Public Security of the Mainland, so that the relevant authorities will be more stringent in assessing their future applications for entry to Hong Kong. The offences involved include illegal employment, breach of conditions of stay, possession or use of forged documents, submission of false statements, engaging in prostitution or other criminal offences punishable by at least two years' imprisonment. Generally, the Mainland authorities will not issue exit endorsements or travel documents to such persons for a period of two to five years, depending on the circumstances. The ImmD will review the mechanism at appropriate times and maintain liaison with the Mainland authorities to ensure its effectiveness.

Services Provided to Children and Women by Maternal and Child Health Centres

18. **MR ALAN LEONG** (in Chinese): *President, according to the Government's statistics, there were 91 558 babies born in Hong Kong in 2012, and among them, 4 698 babies were born to Mainland women whose spouses were Hong Kong permanent residents (that is, singly non-permanent resident (SNR) children), and 26 715 babies were born to Mainland women whose spouses were not Hong Kong permanent residents (that is, doubly non-permanent resident (DNR) children). There have been comments that although both SNR and DNR children are eligible to use the child health services provided by the Maternal and Child Health Centres (MCHCs) under the Department of Health (DH), some of them do not use such services probably because they do not reside in Hong Kong. In connection with the services provided to children and women by the MCHCs, will the Government inform this Council:*

- (1) *of the total number of children receiving services provided by the MCHCs at present, with a breakdown by age group and the resident status of their parents in Table 1;*

Table 1

<i>Age group</i>	<i>All children</i>	<i>SNR children</i>	<i>DNR children</i>
<i>Below 1</i>			
<i>1 or above</i>			

- (2) *of the respective numbers of Hong Kong-born children in each of the past five years who continuously used (i) the immunization services and (ii) the developmental surveillance and diet assessment services of the MCHCs, with a breakdown by the resident status of their parents and set out in a table of the same format as Table 2; and*

Table 2 Service: _____

<i>Year</i>	<i>All children</i>	<i>SNR children</i>	<i>DNR children</i>
<i>2009</i>			
<i>2010</i>			
<i>2011</i>			
<i>2012</i>			
<i>2013</i>			

- (3) *of the respective numbers of women who used (i) the antenatal services and (ii) the postnatal checkups and family planning advice services of the MCHCs in each of the past five years, with a breakdown by the resident status of their spouses and set out in a table of the same format as Table 3?*

Table 3 Service: _____

<i>Year</i>	<i>All women</i>	<i>SNR women</i>	<i>DNR women</i>
<i>2009</i>			
<i>2010</i>			
<i>2011</i>			
<i>2012</i>			
<i>2013</i>			

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, it has been the Government's policy to provide public healthcare services to local residents at highly subsidized rates. According to the existing policy, holders of valid Hong Kong Identity Card or children under 11 years of age who are Hong Kong residents are persons who are eligible to use subsidized public healthcare services (that is, Eligible Persons (EPs)). The DH has been reviewing the future demand for maternal and child health services in response to relevant factors such as the total number of births and the number of new cases in the past. My reply to the various parts of the question is as follows:

- (1) and (2)

The MCHCs under the DH provide services for eligible children from birth to five years of age. In the past five years, the total numbers of new cases served by the MCHCs involving infants under one year of age, with breakdown by their parents' eligibility status, are set out in Table 1 of the Annex. The number of new cases involving children aged one year old or above is around 6% to 8 % of the total number of new cases received annually. However, the DH has not kept a breakdown on the number of new cases involving children aged one year old or above by the eligibility status of their parents.

Since an infant may receive various types of child health services, such as "health and developmental surveillance" and "immunization" services, in the same consultation session, the DH does not have a statistical breakdown on the number of consultation by type of services.

- (3) In the past five years, the total numbers of attendance respectively for maternal health service and family planning service provided by the MCHCs, with breakdown by the user's eligibility status, are set out in Tables 2 and 3 of the Annex respectively. The maternal health service includes antenatal and postnatal services. Each year, the number of attendance for postnatal service accounts for about 15% of the total number of attendance for maternal health service.

The DH has not kept information on eligibility status of service user's spouse.

Annex

MCHCs under the DH Statistics on Services Provided

Table 1: Number of new cases served by the MCHCs in 2009 to 2013 involving infants under one year of age, with breakdown by parents' eligibility status

<i>Year</i>	<i>Number of new cases served (under one year of age)</i>		
	<i>Total</i>	<i>Mother is a NEP and father is an EP (%)</i>	<i>Both father and mother are NEPs (%)</i>
2009	62 300	5 900 (9.5%)	12 600 (20.2%)
2010	66 700	6 000 (9.0%)	14 400 (21.6%)
2011	72 200	5 900 (8.2%)	16 600 (23.0%)
2012	73 400	7 000 (9.5%)	11 600 (15.8%)
2013	54 700	5 300 (9.7%)	1 200 (2.2%)

Note:

All figures are rounded to the nearest hundred; EP = eligible person; NEP = non-eligible person

Table 2: Number of attendance for MCHCs' maternal health service in 2009 to 2013, with breakdown by service user's eligibility status

<i>Year</i>	<i>Number of attendance for maternal health service</i>	
	<i>Total</i>	<i>Service user is a NEP (%)</i>
2009	164 000	1 740 (1.1%)
2010	152 000	1 410 (0.9%)
2011	167 000	1 090 (0.7%)
2012	197 000	850 (0.4%)
2013	170 000	370 (0.2%)

Note:

NEP = non-eligible person, figures on the total number of attendance are rounded to the nearest thousand and figures on the breakdown by service user's eligibility status are rounded to the nearest 10

Table 3: Number of attendance for MCHCs' family planning service in 2009 to 2013, with breakdown by service user's eligibility status

<i>Year</i>	<i>Number of attendance for family planning service</i>	
	<i>Total</i>	<i>Service user is a NEP(%)</i>
2009	145 000	180 (0.1%)
2010	128 000	170 (0.1%)
2011	123 000	230 (0.2%)
2012	125 000	220 (0.2%)
2013	120 000	170 (0.1%)

Note:

NEP = non-eligible person, figures on the total number of attendance are rounded to the nearest thousand and figures on the breakdown by service user's eligibility status are rounded to the nearest 10

Burglaries of Luxurious Apartments

19. **MR ABRAHAM SHEK** (in Chinese): *President, it has been reported that on the Christmas Day just past, five luxurious apartments on Hong Kong Island*

were found within a period less than two hours to have been burgled, with properties valued over \$2 million in total stolen from four of them. It has also been reported that burglary gangs comprising mainly local people often recruit criminals from the Mainland to come to Hong Kong to commit crimes, because it would still be very easy for the local people, who are the masterminds of the crimes, to escape justice even if such Mainland criminals are arrested. Furthermore, such Mainland criminals will return to the Mainland immediately after committing crimes and stay away from Hong Kong, making it difficult for the police to detect such cases. In this connection, will the Government inform this Council:

- (1) *of the number of burglaries of luxurious apartments in the past three years and the number of such cases detected by the police;*
- (2) *whether it has assessed the correlation between burglaries at luxurious apartments and the residents there travelling abroad during holidays or their oversight of home security;*
- (3) *whether the police have maintained close liaison with the property management companies concerned in respect of anti-theft measures for luxurious apartments and tendered advice on plugging security loopholes; if they have, of the details; if not, the reasons for that;*
- (4) *as quite a number of luxurious apartments are located at secluded areas, whether the police have taken specific measures to curb burglaries targeted at such apartments; if they have, of the details; if not, the reasons for that; and*
- (5) *whether the police have encountered difficulties in bringing to justice Mainlanders who have returned to the Mainland after committing burglaries in Hong Kong; if they have, of the difficulties and whether any solution is in place?*

SECRETARY FOR SECURITY (in Chinese): President, the police have been paying close attention to burglary cases in different premises. On top of actively taking preventive measures against such crimes, the police provide home security and anti-theft information to the public through various channels. My reply to the Member's question is as follows:

- (1) As there is no standard definition of "luxury apartments", the police do not maintain any figures of burglary cases in such premises. However, there has been a downward trend in the number of burglary cases in Hong Kong. In the first 11 months of 2013, there was a total of 3 281 cases, a drop of 15.6% against the same period of 2012. Figures of burglary cases in residential buildings with property losses at a value of \$500,000 or more in the past three years are at Annex.
- (2) According to the police, residential flats are prone to burglary if left unattended for a long period of time, such as when the whole family travels abroad. The police believe that burglars will take their chance of breaking in when the flats are left unattended. In case the flat is to be left unattended for a long time, residents are advised to adopt various measures to step up home security, which include suspending newspapers delivery service, or asking friends or neighbours to regularly empty the mail boxes, so that burglars will not notice the residents' long-term absence. Residents may also pre-set the timer of their home lighting system or audio equipment, creating a setting of occupancy to avoid giving chances to burglars.
- (3) and (4)

The police have been making efforts in the combat and prevention of burglary on many fronts through a strategic increase of police presence at black spots of such crimes, as well as deploying beat officers on an intelligence-led basis. Uniformed patrols and inspection of security facilities are also stepped up at areas with a higher risk of burglary, such as secluded places. During the "Winter Precaution" when there are more long holidays, front-line uniformed and plain-clothes patrols are enhanced to avoid giving chances to burglars. In addition to augmenting intelligence collection and crime trend analysis, police manpower is strengthened at black spots to watch out for and intercept any suspicious persons.

Effective publicity and education are of vital importance to burglary prevention. The police have been raising residents' crime prevention awareness by community engagement. In terms of home burglary prevention, the police regularly conduct burglary

prevention talks for property management companies and their security personnel, and relay crime information, including the trend and common mode of operation of burglary cases, to them through emails in order to raise their awareness of burglary prevention. In addition, the police put up posters at the lobbies of public and private residential buildings to remind the public of stepping up home security. The police, in the light of the characteristics, settings and needs of different districts, also conduct anti-crime campaigns in collaboration with District Councils (DCs) and District Fight Crime Committees (DFCCs), and examples of which are distribution of promotional leaflets to residents on home burglary prevention in different languages and organization of security talks. Furthermore, the Home Affairs Department and its District Building Management Liaison Teams have rendered support and assistance to owners and owners' corporations. Education and publicity programmes are organized from time to time to promote effective building management and to provide relevant information, including building security.

Residents are advised to remain vigilant at all times, regardless of the types of residence. The police shall continue to disseminate information to the public on the trend and common mode of operation of burglary cases, and offer feasible security advice by means of various channels, such as collaborations with DCs and DFCCs, exclusive interviews on newspapers, TV and radio APIs, Police Magazine and the Internet, including the Hong Kong Police YouTube channel and the Hong Kong Police Force (HKPF)'s mobile applications.

- (5) The police are aware that less traces are left behind by burglars. A burglary case may have happened for quite a while by the time it comes to light. In this connection, the most effective means is to take precautions by maintaining home security at all times. In case of a burglary, any damage of on-the-spot evidence is to be strictly discouraged, and a report to the police shall be made as quickly as possible. If the persons involved in the crime are outside Hong Kong, the HKPF and the relevant law-enforcement agencies shall, having taken into account the principles applicable to inter-jurisdictional co-operation, and in compliance with relevant

laws and regulations, follow up or handle each case in the light of evidence and individual circumstances.

Annex

Burglary cases in residential buildings with property losses at a value of \$500,000 or more between January 2010 and November 2013

	2010	2011	2012	January to November 2013
Number of cases	37	15	47	38
Number of cases detected	5	1	3	3

Rest Facilities for Employees of Outsourced Service Contractors of Government

20. **MR CHAN HAK-KAN** (in Chinese): *President, it is learnt that as some of the newly completed government venues (such as Tuen Mun North West Swimming Pool) do not provide for rest rooms, toilets and changing rooms for use by employees of the outsourced service contractors (contractors), such employees need to take their meals on staircases and queue up to use public changing rooms. In addition, it has been reported that quite a number of cleansing staff employed by the contractors under the Food and Environmental Hygiene Department (FEHD), the Leisure and Cultural Services Department (LCSD) and the Housing Department (HD) can take a break beside refuse bins only, need to change their uniforms at home before going to work and are not permitted to use government staff toilets. In this connection, will the Government inform this Council:*

- (1) *whether, according to the relevant criteria or guidelines, the authorities are required to reserve space for and build facilities (such as rest rooms, toilets and changing rooms) for use by the contractors' employees when designing government venues; if so, of the details; if not, the reasons for that;*
- (2) *of the respective current numbers of venues under the FEHD, the LCSD and the HD (including refuse collection points, public toilets, shopping malls in public housing estates, car parks, swimming pools*

and sports grounds, and so on) with contractors engaged and, among them, the respective numbers of venues provided with rest rooms, changing rooms and water dispensers for use by the contractors' employees; if the venues are not provided with such facilities, of the reasons for that;

- (3) whether it is commonly stipulated in the existing outsourced service contracts that contractors must provide a reasonable and safe working environment for their employees; if so, of the contents of the relevant clauses; if not, whether it will consult the Labour Department (LD) and include such clauses in the contracts in future; and*
- (4) whether the LD has any plan to assess the working environment of the contractors' employees to examine if they are working in a reasonable and safe environment; if it has, of the details of the plan; if not, the reasons for that?*

SECRETARY FOR LABOUR AND WELFARE (in Chinese): President, the Occupational Safety and Health Ordinance (OSHO) and its subsidiary regulations provide for employers' duty to ensure, as far as reasonably practicable, their employees' safety and health at work. The person responsible for a workplace is also required to provide drinking water, toilets and other sanitary conveniences. The LD has prepared the "Guidelines for Good Occupational Hygiene Practice in a Workplace" to remind employers of their duties to ensure that sufficient sanitary conveniences and wash basins are provided at readily accessible locations near work areas and adjacent to other facilities such as changing rooms.

My reply to the four parts of the question is as follows:

- (1) According to the information provided by the Government Property Agency, when designing government venues, government departments will calculate the space required, including staff's workplace, based on the staff's ranks, operational needs and facilities required. The identity of the employee (whether he is a civil servant, contract staff or outsourced worker) is not a consideration.

- (2) At present, the number of government venues of the FEHD, the LCSD and the HD with contractors engaged is more than 400, 750 and 160 respectively. Taking into account the area of the venue and other relevant considerations, the Administration will provide suitable rest facilities for employees of the contractors. If rest facilities are available for members of the public and/or staff at the venues concerned, employees of the contractors can generally make use of those facilities. Many government venues with contractors engaged have rest rooms, changing rooms or water dispensers, which can normally be used by employees of the contractors. Some venues do not provide for such facilities owing to space constraints.

- (3) and (4)

According to the information provided by departments, generally there are contractual provisions stipulating that the contractors should comply with all the legislation in relation to the execution of the service contracts, including OSHO. The LD will review the outsourced service contracts concerned to consider the need to advise relevant departments to revise the service contracts or make other administrative arrangements with a view to ensuring that the contractors provide a reasonable and safe working environment for their employees and, as far as reasonably practicable, comply with the "Guidelines for Good Occupational Hygiene Practice in a Workplace".

Appointment of Non-official Members to Advisory and Statutory Bodies

21. **MR KENNETH LEUNG** (in Chinese): *President, recently, a member of the Independent Police Complaints Council (IPCC) was not reappointed by the Chief Executive at expiry of his tenure of office and the authorities did not give any explanation publicly. The member concerned served on the IPCC for a period of four years only, which has not reached the usual upper limit of six years on the tenure of office of non-official members of advisory and statutory bodies (ASBs). It has been reported that the decision not to reappoint that member involved political reasons and was related to Ms KAO Ching-chi (Ms KAO), a full-time member of the Central Policy Unit (CPU). Moreover, at a meeting of a Panel of the Legislative Council held on 19 November 2012, the Head of the CPU*

indicated that Ms KAO was tasked to assist the CPU in tendering more systematic advice to the relevant bureaux and government departments (B/Ds) on matters relating to the appointment of suitable candidates to the public offices of ASBs (appointment matters). In this connection, will the Government inform this Council:

- (1) of the existing criteria and procedure for appointment matters; whether the authorities have drawn up guidelines for issues concerning the selection mechanism, criteria and integrity checking, and so on; if so, of the details;*
- (2) of the number of appointments made by the Government in each of the past five years; the number of members, apart from those who had indicated their wish of not seeking reappointment, who had served for less than six years and were not reappointed by the Government, with a breakdown by name of ASBs;*
- (3) given that the Home Affairs Bureau has set up a centralized database of members of the public who are willing to take up public offices, from which bureaux and departments may retrieve the information as reference in considering appointment matters, of the number of times that the CPU or its members conducted inspection of such information in the past five years;*
- (4) of the B/Ds to which advice on appointment matters has been tendered by the CPU since the incumbent Chief Executive took office and whether such advice has been accepted; whether Ms KAO has been engaged in tendering such advice (with details set out in the table below); and*

<i>B/D</i>	<i>Public office of the ASB concerned</i>	<i>Whether the advice of the CPU has been accepted</i>	<i>Whether Ms KAO was engaged in providing the advice</i>

- (5) whether B/Ds are required to give an account of the reasons to the CPU when their appointment decisions are in variance with the advice of the CPU; if so, of the reasons, and the number of occasions*

of B/Ds giving such an account since the incumbent Chief Executive took office?

SECRETARY FOR HOME AFFAIRS (in Chinese): President, my reply to the question of Mr Kenneth LEUNG is as follows:

- (1) The Government makes appointments of non-official members to ASBs on the basis of the merit of individuals concerned. When appointing members to serve on the ASBs under their purview, B/Ds take into account a candidate's ability, expertise, experience, integrity and commitment to public service, with due regard to the functions and nature of business of the ASBs as well as the statutory requirements for statutory bodies.

In upholding the principle of appointment by merit, B/Ds observe, as far as possible, the "six-year rule" (that is, not appointing a non-official member to serve on the same body in any one capacity for more than six years) and "six-board rule" (that is, not appointing a person to serve as a non-official member on more than six ASBs at any one time) to ensure a proper turnover of members of ASBs and the availability of more opportunities for members of the public to participate in public affairs through serving on these bodies. Moreover, the Home Affairs Bureau has issued guidelines to B/Ds, reminding the appointing authorities of the 30% gender benchmark and the importance of taking heed of this benchmark target.

- (2) The number of non-official members appointed by the Government to ASBs in each of the past five years according to the information submitted by B/Ds is set out in the following table:

<i>Year</i>	<i>Number of non-official members appointed by the Government to ASBs*</i>
2009	2 819
2010	2 650
2011	3 247

<i>Year</i>	<i>Number of non-official members appointed by the Government to ASBs*</i>
2012	3 900
2013	3 697

Note:

* The above figures of non-official members appointed by the Government to ASBs include the non-official representatives nominated by specified professions or organizations.

As there is no established policy requiring that a non-official member of ASBs should serve an ASB for six years before being replaced by a new member, B/Ds do not keep statistics on the number of ASB non-official members whose years of appointment are less than six years, nor do they have information on the reasons concerned. This being the case, the Home Affairs Bureau is unable to provide the relevant information.

- (3) The CPU makes access to the information in the Home Affairs Bureau's centralized database from time to time in the light of operational needs. The CPU does not maintain the relevant statistics.
- (4) The current-term government considers it important to cultivate and build up a reserve of talents so as to tie in with the future development of Hong Kong. To take this forward in a more systematic manner, the Chief Executive has requested the CPU to advise on the appointment of suitable candidates to ASBs. As stated by Head, the CPU at the meeting of the Panel on Public Service under the Legislative Council on 19 November 2012, Full-time Member (3) of the CPU (with Ms KAO as incumbent) is tasked to strengthen the work of the CPU in building up a reserve of talents in various policy areas and recommending talents to the Government. Ms KAO is also responsible for assisting the CPU in providing more systematic advice to the relevant B/Ds on candidates suitable for appointment to ASBs.

Since July 2012, the CPU has advised on 155 appointments of candidates to ASBs, the majority of which involve replacement appointments upon the expiry of service, whereas some others are for identifying candidates for appointment to newly formed advisory bodies. In the light of the terms of reference, functions and roles of the relevant bodies, as well as the qualification requirements on the candidates, the CPU will offer advice to the authorities concerned on the appointment of suitable candidates for consideration and selection. The CPU does not have data on whether or not its advice or recommendations are accepted.

- (5) The CPU only tenders advice or recommends candidates. The appointment procedures and ultimate recommendation of candidates remain a responsibility of the relevant bureaux, while the decision is made by the appointing authorities. The CPU has no authority to approve or veto appointments, nor are bureaux required to make explanations to the CPU.

Residential Care Services for Elderly and Persons with Disabilities

22. **MR CHEUNG KWOK-CHE** (in Chinese): *President, regarding residential care services for the elderly and persons with disabilities, will the Government inform this Council:*

- (1) *of the respective numbers of residential care homes for the elderly (RCHEs) and those for people with disabilities (RCHDs) in Hong Kong in each of the past three years, with a breakdown by the type and mode of operation of the RCHEs and RCHDs;*
- (2) *of the respective numbers of service places and respite service places provided by various types of RCHEs and RCHDs in Hong Kong, and the respective numbers of persons waiting for subsidized services, in each of the past three years;*
- (3) *of the respective numbers of employees in different types of RCHEs and RCHDs in Hong Kong in each of the past three years (set out by year and type of workers in tables of the same format as Tables 1 to 3);*

Table 1 (Year)

Type of workers	RCHEs			
	Nursing home	Care and attention home for the elderly	Home for the aged	Hostel for the elderly
Registered social worker				
Ancillary worker				
Care worker				
Health worker/ personal care worker				
Registered nurse				
Enrolled nurse				
Physiotherapist				
Occupational therapist				

Table 2 (Year)

Type of workers	RCHDs						
	Halfway house	Long stay care home	Hostel for moderately mentally handicapped persons	Hostel for severely mentally handicapped persons	Hostel for severely physically handicapped persons	Care and attention home for severely disabled persons	Care and attention home for the aged blind
Registered social worker							
Ancillary worker							
Care worker							
Health worker/ personal care worker							
Registered nurse							
Enrolled nurse							
Physiotherapist							
Occupational therapist							

Age	Number of residents (percentage in the total number of residents)							
	(i)	(ii)	(iii)	(iv)	(v)	(vi)	(vii)	(viii)
70 to 79								
80 or above								
Total								

- (5) of the age distribution of the residents living in the following types of RCHDs in 2012-2013, including (i) halfway houses, (ii) long stay care homes, (iii) hostels for moderately mentally handicapped persons, (iv) hostels for severely mentally handicapped persons, (v) hostels for severely physically handicapped persons, (vi) care and attention homes for severely disabled persons, (vii) care and attention homes for the aged blind, (viii) supported hostels and (ix) integrated vocational training centres with residential service (set out in Table 5); and

Table 5

Age	Number of residents (percentage in the total number of residents)								
	(i)	(ii)	(iii)	(iv)	(v)	(vi)	(vii)	(viii)	(ix)
15 to 19									
20 to 29									
30 to 39									
40 to 49									
50 to 59									
60 to 69									
70 to 79									
80 or above									
Total									

- (6) of the age distribution of the children/youth living in (i) special child care centres and (ii) small group homes for mildly mentally handicapped children/integrated small group homes in 2012-2013 (set out in Table 6)?

Table 6

Age	<i>Number of children/youth (percentage in the total number of children/youth)</i>	
	<i>Special child care centre</i>	<i>Small group home for mildly mentally handicapped children/ Integrated small group home</i>
<i>4 or below</i>		
<i>5 to 9</i>		
<i>10 to 14</i>		
<i>15 to 19</i>		
<i>20 or above</i>		
<i>Total</i>		

SECRETARY FOR LABOUR AND WELFARE (in Chinese): President, my reply to the questions raised by Mr CHEUNG Kwok-che is as follows:

- (1) The respective numbers of RCHEs with a breakdown by types in the past three years are as follows:

<i>Type of RCHEs</i>	<i>Number of RCHEs</i>		
	<i>As at end March 2011</i>	<i>As at end March 2012</i>	<i>As at end March 2013</i>
Subvented self-care hostel for the elderly ⁽¹⁾	1	1	1
Subvented home for the aged ⁽¹⁾	7	5	5
Subvented care-and-attention home	115	115	115
Subvented nursing home	6	6	6
Contract home	16	18	20
Private RCHEs participating in the EBPS	140	137	137
Self-financing home under the Nursing NHPPS	4	4	4

<i>Type of RCHEs</i>	<i>Number of RCHEs</i>		
	<i>As at end March 2011</i>	<i>As at end March 2012</i>	<i>As at end March 2013</i>
Other non-profit-making self-financing RCHEs	37	36	36
Private RCHEs ⁽²⁾	445	442	429

Notes:

- (1) Self-care hostel and home for the aged places are being converted by phases into care-and-attention places to provide a continuum of care as from 2005-2006.
- (2) Excluding private RCHEs which have participated in EBPS.

The respective numbers of RCHDs with a breakdown by type in the past three years are as follows:

<i>Type of service</i>	<i>Number of RCHDs</i>		
	<i>As at end March 2011</i>	<i>As at end March 2012</i>	<i>As at end March 2013</i>
Subvented halfway house	36	36	36
Subvented long stay care home	6	6	6
Subvented Integrated Vocational Training Centre (Residential Service)	1	1	1
Subvented hostel for moderately mentally handicapped persons	40	40	40
Subvented hostel for severely mentally handicapped persons	59	59	60
Subvented hostel for severely physically handicapped persons	13	13	13
Subvented care-and-attention home for severely disabled persons	19	19	20

<i>Type of service</i>	<i>Number of RCHDs</i>		
	<i>As at end March 2011</i>	<i>As at end March 2012</i>	<i>As at end March 2013</i>
Subvented care-and-attention home for the aged blind	11	11	11
Subvented small group home for mildly mentally handicapped children/integrated small group home	26	26	26
Subvented supported hostel	24	24	24
Subvented residential special child care centre	6	6	6
Non-profit-making self-financing RCHDs	21	21	21
RCHDs participating in the Pilot Bought Place Scheme For Private RCHDs (BPS)	1	5	6
Private RCHD ⁽³⁾	69	74	72

Note:

(3) Excluding private RCHDs which have participated in the BPS.

- (2) The respective numbers of residential care places provided by various types of RCHEs in the past three years are as follows:

<i>Type of residential care places</i>	<i>Number of places</i>		
	<i>As at end March 2011</i>	<i>As at end March 2012</i>	<i>As at end March 2013</i>
Subvented self-care hostel for the elderly	24	24	24
Subvented home for the aged	430	293	293
Subvented care-and-attention home	14 185	14 472	14 608
Subvented nursing home	1 574	1 574	1 574
Subsidized places of contract home	1 218	1 406	1 552

<i>Type of residential care places</i>	<i>Number of places</i>		
	<i>As at end March 2011</i>	<i>As at end March 2012</i>	<i>As at end March 2013</i>
Non-subsidized places of contract home	1 015	1 060	1 105
EBPS places	7 176	7 315	7 403
NHPPS places	139	151	161
Non-subsidized places of subvented RCHEs and non-profit-making self-financing RCHEs	4 199	4 164	4 164
Private RCHEs ⁽⁴⁾	45 741	45 257	44 054

Note:

(4) Excluding the places provided under EBPS.

Concerning elderly residential respite service, in addition to the 11 designated residential respite places provided by subvented RCHEs, the Social Welfare Department (SWD) also makes use of the casual vacancies of the subsidized places in all subvented nursing homes, care-and-attention homes and contract homes to provide residential respite service. Since March 2012, all private RCHEs participating in EBPS have provided residential respite service as well.

The number of persons waiting for subsidized residential care places for the elderly in the past three years is as follows:

<i>As at</i>	<i>Number of persons on the waiting list</i>	
	<i>Nursing home places</i>	<i>Care-and-attention places</i>
End March 2011	6 409	20 342
End March 2012	6 456	21 432
End March 2013	6 272	22 546

The respective numbers of places provided by various types of RCHDs in the three years are as follows:

<i>Type of Service</i>	<i>Number of RCHDs</i>		
	<i>As at end March 2011</i>	<i>As at end March 2012</i>	<i>As at end March 2013</i>
Subvented halfway house	1 509	1 509	1 509
Subvented long stay care home	1 507	1 507	1 507
Subvented Integrated Vocational Training Centre (Residential Service)	170	170	170
Subvented hostel for moderately mentally handicapped persons	2 269	2 287	2 292
Subvented hostel for severely mentally handicapped persons	3 193	3 218	3 382
Subvented hostel for severely physically handicapped persons	573	573	573
Subvented care-and-attention home for severely disabled persons	908	908	959
Subvented care-and-attention home for the aged blind	825	825	825
Subvented small group home for mildly mentally handicapped children/integrated small group home	64	64	64
Subvented supported hostel	554	554	554
Subvented residential special child care centre	110	110	110
Non-profit-making self-financing RCHDs	376	392	404
Places under the BPS	40	158	245
Private RCHD ⁽⁵⁾	3 688	4 086	3 759

Note:

(5) Excluding places provided under the BPS.

As at end March 2013, various types of RCHDs provided a total of 248 residential respite places for persons with disabilities aged six or above through designated places or casual vacancies. As announced by the Chief Executive in the Policy Address this year, we will allocate additional resources to enhance the day and residential respite service in 2014-2015 to relieve the pressure of the family members/carers of persons with disabilities.

The respective numbers of persons waiting for the service of various types of subsidized RCHDs in the past three years are as follows:

<i>Type of Residential Care Homes⁽⁶⁾</i>	<i>Number of persons on the waiting list</i>		
	<i>As at end March 2011</i>	<i>As at end March 2012</i>	<i>As at end March 2013</i>
Halfway house places	784	735	688
Long stay care home places	1 116	1 222	1 325
Hostel for moderately mentally handicapped persons places	1 386	1 369	1 533
Hostel for severely mentally handicapped persons places	1 995	2 082	2 190
Hostel for severely physically handicapped persons places	386	398	459
Care-and-attention home for severely disabled persons places	361	389	425
Care-and-attention home for the aged blind places	103	90	120
Small group home for mildly mentally handicapped children/integrated small group home places	51	73	79
Supported hostel places	1 001	1 012	1 173

<i>Type of Residential Care Homes⁽⁶⁾</i>	<i>Number of persons on the waiting list</i>		
	<i>As at end March 2011</i>	<i>As at end March 2012</i>	<i>As at end March 2013</i>
Residential special child care centre places	66	58	51

Note:

- (6) As the Integrated Vocational Training Centre (Residential Service) admits service users by direct application or referrals, the SWD does not keep statistics in this respect.
- (3) Staffing of all RCHEs and RCHDs must be in compliance with the requirements of relevant ordinances. Besides, all the SWD-subsidized residential care homes are required to comply with the staffing provision under the Essential Service Requirements of the Funding and Service Agreements or the service contracts. As long as the RCHEs and RCHDs concerned fulfil the relevant requirements mentioned above, they may flexibly deploy their resources for staff recruitment. The SWD does not keep statistics on the number of staff in various types of RCHEs and RCHDs.
- (4) Subsidized residential care services for the elderly aim to provide residential care and facilities for elderly persons aged 65 or above who, for personal, social, health and/or other reasons, cannot be adequately taken care of at home. Persons aged between 60 and 64 may also apply for subsidized residential care places for the elderly if there is a proven need.
- In other words, all service users of subsidized residential care places for the elderly are eligible persons aged 60 or above. The SWD does not keep statistics on the age distribution and the respective percentages.
- (5) The age distribution of service users for various types of residential care services for persons with disabilities as at the end of December 2012 was as follows:

Age	Number of service users (percentage in the total number of users) ⁽⁷⁾							
	halfway house	long stay care home	hostel for moderately mentally handicapped persons	hostel for severely mentally handicapped persons	hostel for severely physically handicapped persons	care-and-attention home for severely disabled persons	care-and-attention home for the aged blind	supported hostel
15-19	9 (0.6%)	0 (0%)	12 (0.5%)	12 (0.4%)	0 (0.0%)	22 (2.4%)	Not Applicable	7 (1.3%)
20-29	206 (14.2%)	6 (0.4%)	230 (10.4%)	419 (13.1%)	78 (14.2%)	229 (25.3%)	Not Applicable	91 (16.5%)
30-39	398 (27.4%)	48 (3.2%)	556 (25.1%)	928 (29.1%)	191 (34.7%)	165 (18.2%)	Not Applicable	145 (26.2%)
40-49	468 (32.2%)	203 (13.6%)	713 (32.2%)	922 (28.9%)	142 (25.8%)	150 (16.6%)	Not Applicable	183 (33.1%)
50-59	306 (21.0%)	492 (33.0%)	546 (24.7%)	702 (22.0%)	100 (18.2%)	182 (20.1%)	Not Applicable	110 (19.9%)
60 or above	68 (4.7%)	740 (49.7%)	154 (7.0%)	210 (6.6%)	39 (7.1%)	157 (17.3%)	788 (100%)	17 (3.1%)
Total	1 455	1 489	2 211	3 193	550	905	788	553

Note:

(7) As the Integrated Vocational Training Centre (Residential Service) admits service users by direct application or referrals, the SWD does not keep statistics in this respect.

- (6) The age distribution of service users for residential special child care centre and small group home for mildly mentally handicapped children/integrated small group home as at the end of December 2012 was as follows:

Special child care centre

Age	Number of service users (percentage in the total number of users)
Below 4	64 (63.4%)
5-9	37 (36.6%)
10-14	Not applicable
15-19	Not applicable
20 or above	Not applicable
Total	101

Small group home for mildly mentally handicapped children/integrated small group home

<i>Age⁽⁸⁾</i>	<i>Number of service users (percentage in the total number of users)</i>
6-8	3 (4.7%)
9-11	10 (15.9%)
12-15	25 (39.7%)
16-18	25 (39.7%)
Total	63

Note:

- (8) Statistics categorized according to the age distribution specified in the question (for example, below 4, 5-9, 10-14, 15-19 and above 20) are not readily available.

BILLS

First Reading of Bills

PRESIDENT (in Cantonese): Bill: First Reading.

LOANS (AMENDMENT) BILL 2014

CLERK (in Cantonese): Loans (Amendment) Bill 2014.

Bill read the First time and ordered to be set down for Second Reading pursuant to Rule 53(3) of the Rules of Procedure.

Second Reading of Bills

PRESIDENT (in Cantonese): Bill: Second Reading.

LOANS (AMENDMENT) BILL 2014

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, I move that the Loans (Amendment) Bill 2014 (the Bill) be read the Second time.

The purpose of the Bill is to amend the Loans Ordinance, so as to accommodate the issuance of Islamic bonds (sukuk) under the Government Bond Programme (GBP).

The Government has all along been committed to, through the continuing operation of the GBP, diversifying the types of bonds available in our capital market, broadening the investors' base and promoting the further and sustainable development of the local bond market. The issuances under both the institutional and retail parts of the GBP have played a key role in providing high-quality bonds issued by the public sector to the local bond market and they were well received by a wide array of local and foreign investors.

The Inland Revenue and Stamp Duty Legislation (Alternative Bond Schemes) (Amendment) Ordinance 2013, enacted by the Legislative Council in July last year, has enhanced the competitiveness of Hong Kong in the development of a sukuk market, as the legislation levels the playing field by providing a comparable taxation framework for sukuk *vis-à-vis* conventional bonds. With the strong presence of international financial intermediaries and our well-established market infrastructure, Hong Kong is on a firm footing to promote Islamic finance through encouraging issuers to raise funds by issuing sukuk.

To continue to make steady progress on this front, we see the merits of the issuance of sukuk in response to the prevailing market conditions and needs. This will signal to the markets that our legal, regulatory and taxation frameworks are well established to accommodate sukuk issuances, thereby giving further impetus to other potential sukuk issuers from the public or private sector, both local and international, to raise funds in Hong Kong. We expect that, given the shortage of highly-rated sukuk in the international capital markets, an inaugural sukuk issuance originated by the Government of Hong Kong SAR, with an excellent credit rating of AAA, will draw attention and interest in the global market.

(THE PRESIDENT'S DEPUTY, MR ANDREW LEUNG, took the Chair)

In fact, a number of overseas jurisdictions have issued or are contemplating to issue sovereign sukuk to develop their Islamic financial markets. Therefore, the Government considers that the GBP provides a possible window to promote the sukuk market in Hong Kong through the issuance of sukuk, alongside conventional bonds, targeting global institutional investors who look for opportunities to diversify their investment portfolios into highly-rated sukuk products.

Unlike conventional Government Bonds issued under the GBP, sukuk are structured in a Shariah-compliant manner with the use of special purpose vehicles and multiple asset transfers. We therefore need to amend the Loans Ordinance, to encompass a situation in which the Government raises funds by way of sukuk issuance so as to accommodate the issuance of sukuk under the GBP. This will enable the sukuk proceeds so obtained to be credited to the Bond Fund for investment.

Furthermore, we propose making amendments to the Resolution of the Legislative Council to pay out of the Bond Fund to settle the sums which are used to meet the coupon and redemption payments to sukuk holders and to pay the expenses incurred in relation to the issuance of sukuk.

In addition, we propose making related amendments to section 26A of the Inland Revenue Ordinance to allow coupon payments and disposal gains derived from any sukuk issued in connection with the GBP to enjoy the same profits tax exemption as that currently applicable to the interest payments and disposal gains in relation to conventional Government Bonds.

Deputy President, we briefed the Legislative Council Panel on Financial Affairs on the main points of the legislative proposal in December last year. It is anticipated that the Government's proposal to issue the sukuk under the GBP will be welcomed by the financial market as it will broaden the types of bonds available and the investors' base, promote the diversified and sustainable development of the local bond market and give impetus to other potential sukuk issuers to raise funds in Hong Kong. I hope the Legislative Council will support the expeditious passage of the Bill to accommodate the issuance of sukuk under

the GBP so as to consolidate the status of Hong Kong as an international financial centre and asset management centre.

I so submit. Thank you, Deputy President.

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Loans (Amendment) Bill 2014 be read the Second time.

In accordance with the Rules of Procedure, the debate is now adjourned and the Bill is referred to the House Committee.

Resumption of Second Reading Debate on Bills

DEPUTY PRESIDENT (in Cantonese): Council now resumes the Second Reading debate on the Air Pollution Control (Amendment) (No. 2) Bill 2013.

AIR POLLUTION CONTROL (AMENDMENT) (NO. 2) BILL 2013

Resumption of debate on Second Reading which was moved on 23 October 2013

DEPUTY PRESIDENT (in Cantonese): Mr Kenneth LEUNG, Chairman of the Bills Committee on the above Bill, will address the Council on the Committee's Report.

MR KENNETH LEUNG: Deputy President, in my capacity as Chairman of the Bills Committee on Air Pollution Control (Amendment) (No. 2) Bill 2013, I now address the Council on the work of the Bills Committee.

The object of the Bill is to amend the Air Pollution Control Ordinance (APCO) so that, unless exempted, the use, supply, import and transshipment of asbestos and asbestos containing material (ACM) are prohibited. It also proposes to amend the Factories and Industrial Undertakings (Asbestos) Regulation to prohibit any work with chrysotile to be conducted in an industrial

undertaking and to increase the penalties for certain offences which relate to the use of or working with asbestos.

Deputy President, the Bills Committee has held five meetings with the Administration and has invited the public and various organizations to give views on the Bill. A total of 15 organizations have either made oral presentations or written submissions to the Bills Committee. I shall now turn to the major issues deliberated by the Bills Committee.

Whilst supporting the legislative intent of the Bill, the Bills Committee has examined the likely impact of the proposed ban on the industry players, and the exemptions to be provided under the proposed sections 83 and 82 despite the ban on using, supplying, importing and transshipping asbestos or ACM under the proposed new section 80.

The Administration advises that given the availability of the asbestos free substitutes, the import and export of ACM have declined in the past five years. The Bills Committee has taken note of the Administration's estimate that the impact on the trade will be minimal.

The proposed section 83(1) provides that "the Authority may exempt a person from a prohibition imposed under section 80(1) if the Authority considers that the exemption —

- (a) is warranted; and
- (b) would be unlikely to lead to a health risk to the community."

The Bills Committee has requested the Administration to explain the factors that would be considered in granting the exemptions.

The Administration in response has advised that in considering whether an exemption is warranted under section 83(1)(a), the Authority, that is, the Director of Environmental Protection will take into account a number of factors, including whether an asbestos free substitute is available; whether there will be serious disruption to a public service if the application for exemption is not granted; and whether there will be serious safety problem or risk to human life if the application for exemption is not granted. As regards the factors to be considered under the proposed section 83(1)(b), the Administration points out that the

Authority will take into account the quantity of the asbestos or ACM involved; the precautionary measures to be taken to prevent release of asbestos into the air; the location and activity involved; and the likelihood the asbestos or ACM involved will be disturbed.

At the request of the Bills Committee, the Administration has agreed to upload the information on the factors that would be considered in granting the exemptions onto the website of the Environmental Protection Department (EPD) for the information of the public.

Deputy President, the Bills Committee has also examined the non-application of the prohibition under the proposed section 82(3) on the import, supply or transshipment of ACM that is a proprietary Chinese medicine (pCm) being registered under the Chinese Medicine Ordinance. On members' queries over the safety of taking such pCm containing ACM, the Administration has explained that according to expert opinions obtained, there is different pharmacological mechanism between the inhalation of asbestos and ingestion of asbestos. Though asbestos is a proven carcinogen which can cause asbestosis, lung cancer and mesothelioma when inhaled, whether ingested asbestos will accumulate in the body and is carcinogenic has to make reference to authoritative international research.

The Administration explains that according to findings published by the World Health Organization (WHO)'s International Agency for Research on Cancer, studies on exposure to asbestos in drinking-water and stomach, large intestine and colon cancer have concluded that the available data were inadequate to evaluate the cancer risk of asbestos in drinking-water. Also according to the WHO, there is little evidence of the carcinogenicity of ingested asbestos in epidemiological studies of populations with drinking water containing high concentrations of asbestos. The WHO is of the view that there is no consistent evidence that ingested asbestos is hazardous to health. Based on the above findings, the Administration does not consider it necessary to ban registered pCm with ACM.

The Bills Committee notes that as of November 2013, there are a total of 36 pCm registered in Hong Kong containing "tremolium" (a kind of asbestos used in traditional Chinese herbal medicine for a long time). The Administration has advised that these unused pCm should be disposed of according to the mechanism provided in the Waste Disposal Ordinance.

Ordinary citizens could return those unused pCm to the drug stores which will handle them accordingly.

Another issue that the Bills Committee has examined is the existence of ACM in buildings which were built before the 1980s when corrugated asbestos cement sheets (CACS) were commonly used in construction. In view of the harmful nature of the asbestos fibres to human health, the Bills Committee urges the Administration to conduct a territory-wide asbestos survey of all the buildings in Hong Kong. Some members propose to introduce a labelling system for ACM in building structures or to set up a platform to publicize the list of buildings which have ACM.

The Administration however stresses that CACS, if in good condition and under normal circumstances, will not release asbestos fibres and thus pose no health risks to the residents or the public. It is suggested that in case a detailed asbestos survey is conducted, sampling work will inevitably disturb the ACM and asbestos fibres may be released as a result. Since ACM is safe under normal and undisturbed circumstances, the Administration considers that conducting a territory-wide survey on ACM in buildings is not the most appropriate method.

As regards the suggestion of labelling all ACM in buildings, the Administration also indicates that as the presence of ACM can only be ascertained after sampling and testing, and some such material may be concealed inside building structure and service installations and are not easily found and accessible, its presence can only be ascertained after assessment on the spot by a registered asbestos consultant. Taking account of the resources implications, property rights issue, professional and analytical capacity of the asbestos trade, the Administration expresses reservation in introducing a labelling system for ACM in building structures.

In this connection, Deputy President, the Bills Committee has raised concerns that certain workers employed by the subcontractors, in particular the new comers, might not fully understand the hazards of asbestos fibres when carrying out demolition works of structures containing ACM. The Bills Committee has requested the Administration to step up the related publicity work.

The Bills Committee also notes that the EPD has planned to work with the Pneumoconiosis Compensation Fund Board (PCFB) to publish a booklet about

ACM to help the public and the workers better understand and identify the presence of ACM. Besides, the Labour Department in collaboration with the Occupational Safety and Health Council and the PCFB have been organizing various publicity, education and promotion activities to raise the awareness of construction workers, contractors and the general public on asbestosis and preventive measures, so as to avoid or reduce the chance of getting the disease.

The Bills Committee has also examined some of the Chinese rendition of the English text and the impact of the Bill on other legislative requirements relevant to the use of or working with asbestos, and has come to the conclusion that no consequential amendments to the Bill and relevant sections of the Hazardous Chemicals Control Ordinance and the APCO are necessary.

Deputy President, the Bills Committee supports the Second Reading of the Bill. Neither the Administration nor the Bills Committee will move any Committee stage amendments.

The following part of my speech carries my personal comments on the Bill.

Deputy President, having been chairman of a number of Bills Committees since I became a Member of this Council, there are a number of general observations on the quality of the bills tabled by the Government which I would like to draw to the attention of the Administration, my fellow Honourable Members and the public. These are issues raised in this Bills Committee but have much wider implications on the general approach and quality of the draft legislation tabled by the Administration.

First of all, it is the quality of the Chinese rendition of the English text in the draft bill which causes the concern of some of our Members. Take this Bill as an example.

Members have raised two separate queries on the Chinese rendition of two English texts, including, for example, the term "... and could not have reasonably known". Deputy President, it is as important to use plain, intelligible, clear and predictable language in the Chinese rendition as well as the English texts. In addition, the Chinese rendition used should reflect the idiomatic and local use of Chinese language and our good tradition of common law.

Secondly, Deputy President, very often in the main legislation, an Authority or a public officer will be given discretion either to grant exemption or exception. As a rudimentary requirement, such power no doubt must be exercised in good faith and for the purposes of the legislation. However, citizens who are going to rely on this piece of legislation will have legitimate expectation of how such power is going to be exercised. It is therefore paramount that where the context of a legislation permits, criteria for exercising such power must be contained in the principal legislation or the subsidiary legislation. If the discretion is of a minor nature, then it is not appropriate to be spelled out in the principal or subsidiary legislation, and our Members will expect the Administration to issue a practice note or guidelines to the stakeholders.

Thirdly, Deputy President, due to the difficulties and time which a piece of principal legislation or an amendment to a piece of principal legislation may encounter or take in order to pass through the readings in this Council, I personally feel that the Administration from time to time may try to take short cut in pushing through legislation and trying to cut short or circumvent the independent scrutiny and approval power of this Council. In particular, the Administration may try to re-characterize the nature of an amendment, by squeezing changes to a piece of subsidiary legislation rather than putting the changes in the principal legislation; and similarly by issuing a code of conduct or guidelines where the principal legislation permits rather than amending the subsidiary legislation. This act, I think, will not only heavily damage the function and power of this Council but also the fairness and quality of the legislative proposal. Deputy President, I have made this very clear that such practice of circumventing this Council's power should not be tolerated.

Thank you, Deputy President.

MR CHAN HAK-KAN (in Cantonese): Deputy President, asbestos was frequently used in the construction industry in mid-1980s. As asbestos has long been proved to seriously affect construction workers and nearby residents, the import of blue asbestos (crocidolite) and brown asbestos (amosite) had been banned by the authorities since 1996, and a permit system to control and prohibit the use of asbestos was implemented in 2008. In fact, many countries have now banned the import, supply and use of asbestos. The authorities now propose another amendment to the Bill with a view to further protecting the health of the

public and construction workers. While we welcome the amendment, there are two points I would like to elaborate further.

Deputy President, one of the important points under discussion in the Bills Committee is whether proprietary Chinese medicines (pCm) with asbestos containing material (ACM) should be exempted. I would like to stress that according to existing scientific evidence, inhalation of asbestos fibres may result in lung diseases such as asbestosis, lung cancer and mesothelioma. On the other hand, based on traditional Chinese Medicine (TCM) theory or western scientific studies, there is no specific evidence that taking Chinese medicine with ACM (such as tremolium) is hazardous to health. Although some other commonly available Chinese herbal medicines, such as Cortex Eucommiae (杜仲), Fructus Psoraleae (補骨脂) and Cornu Cervi pantotrichum (鹿茸) have similar effects as tremolium that I have just mentioned, Chinese medical practitioners consider that tremolium is an important ingredient in traditional formulation, and for the time being, it cannot be replaced by other Chinese herbal medicines. Since there is different pharmacological mechanism between the inhalation of asbestos and ingestion of asbestos, the World Health Organization (WHO) is also of the view that there is no consistent evidence proving that ingested asbestos is hazardous to health. We therefore consider that exemption for pCm containing tremolium in the amended provisions is understandable. However, the Government should stay attentive to the relevant TCM development and any future announcement made by international health organizations; and health risk assessment for such kind of materials with potential risks should be conducted whenever appropriate. As for the labelling of relevant pCm, the name of ACM may or may not appear on the label if a pCm is composed of three or more kinds of active ingredients. In this way, grey areas may exist, and people may unknowingly buy and take pCm with ACM. This is not only potentially dangerous to health, but also unfair to the consumers. We therefore hope that the Government can relay the relevant views and opinions expressed by members in this Bills Committee to the Chinese Medicines Board, so as to increase the transparency of pCm with ACM and allow the public to know more about such medicines and understand the potential risks involved.

Deputy President, another point of concern is about asbestos emission in relation to asbestos works, which is inevitably prejudicial to public health. Hence, the licensing threshold set by the Director of Environmental Protection must not be too low, and enforcement organizations must also carry out its duties properly before we can effectively protect people's health. For instance, the

roofs of many old village houses are built with some materials called corrugated asbestos cement sheets (CACS). Although CACS will not release asbestos fibres under undisturbed circumstances, there will definitely be damages and dilapidations as these village houses or housing estates are old. When people have to pay for repair works, the costs of such works will surely be determined by the market. I therefore would not rule out the possibility that some people might, for convenience sake or for saving money, engage contractors with no regard for public safety in conducting refurbishment works. In this connection, the Government should perform its gate-keeping role stringently and ensure that removal and repair works are done by registered asbestos professionals. More importantly, it should monitor whether construction materials containing asbestos are illegally disposed of upon completion of the projects. Deputy President should also be aware that the current problem of illegal dumping of debris is very serious both in the New Territories or the urban areas. We have passed a new legislation earlier to step up law-enforcement and monitoring work in respect of such problem. Thus, we wish to stress in particular that the Government must stay attentive to the issue of illegal disposal of ACM, so as to avoid situations that are hazardous to public health. In addition, we consider that the Government should also timely review the relevant amounts of loan and subsidies, so as to prevent property owners from hiring unqualified contractors to lower the repair cost, given the rising construction costs, which in turn would pose more threat to public health.

Moreover, I would like to talk about publicity and education. I think these areas of work cannot be ignored, especially for workers involved in asbestos removal works. We must ensure that they have practical and clear understanding of the dangerous nature of such work, so that they will not take the work lightly and do harm to their own health as well as to public health.

Lastly, the Government should also work closely with the construction industry and the Pneumoconiosis Compensation Fund Board for timely update and publication of a pamphlet or a list of machinery or products which contain ACM for the purpose of better promotion and education.

With these remarks, Deputy President, I support the amendment.

DR KENNETH CHAN (in Cantonese): Deputy President, I believe that many Hong Kong people hope that our Honourable colleagues would support the policy

to impose a total ban on the use of asbestos, because as we all know, asbestos causes various diseases, especially cancer. Some wage earners, in particular construction workers, may even suffer from different health problems after prolonged exposure to environmental asbestos. Certainly, these diseases not only threaten life, but eventually also incur healthcare expenses.

Deputy President, owing to several incidents that happened recently, I have to pay more attention in preparing my speech today. Firstly, it is recently found that a building in the University of Hong Kong (HKU), I guess it should be the Haking Wong Building, has been contaminated by asbestos dust. I am very concerned about that as I am a member involving in the scrutiny work of this Bills Committee. I asked some HKU students if they knew about such incident. They said they had no idea and had never heard about it.

Since asbestos risks are so evident, and the Government has time and again emphasized the importance of safeguarding public health, I believe it is necessary for us to scrutinize the amendments of this Bill to ban the use, import and export of asbestos. In fact, we may have unknowingly exposed to such risks in our living environment. Are the existing guidelines clear enough? Is there a free flow of information at the moment? As for those who are affected or potentially affected by asbestos, are their rights to know well protected?

In the process of examining the legislative amendments, the Honourable colleagues have very often asked some relevant questions, but the answers given are frustrating. Regarding how construction projects should be carried out, it seems that some systems, protections, legislative requirements and licensing systems are in place, but the government officials ended up telling us that asbestos, the use of which has been banned since mid to late 1980s, are indeed still present in many buildings in Hong Kong. When we asked for more details, the government officials told us that most of the corrugated asbestos cement sheets used in small houses in the New Territories contain asbestos. That is a big deal. That means at present, there is no specific, precise and convenient way to let people know about the risks that they are exposed to. The Government will definitely say that normally it is not a problem so long as the structures are in good conditions. The problem is, apart from knowing which buildings contain asbestos, we also have to know whether the building is in good conditions. So two problems are involved, and both involve important information. Why were we so concerned about these problems during our discussion and had repeatedly studied the views expressed by the public? There are proposals that the

Government should start preparing a set of more comprehensive statistics or record, so that people would know how much risk they have been exposed to in their living, working or leisure environments. However, it seems that this Bill cannot meet such purpose.

In this regard, perhaps we can follow up the issue by proposing administrative measures or discussing in relevant committees. Apart from making efforts to provide a set of systematic practice to help the public understand clearly what to do in the face of risk, the Government should also publish a handbook or guideline on how to manage asbestos risks, so as to put the public at ease. Apart from enacting legislation to prohibit the use, import, export and transshipment of asbestos, do we know what the Government can do for us when we have been exposed to asbestos risks?

Deputy President, there is also another piece of important news. During the discussion about the North East New Territories Development last year, it was reported that on a piece of farmland, a flood protection wall containing asbestos built by villagers or residents with their own money was damaged. I wrote to the Environment Bureau to make enquiries and follow up the incident. The Government's reply, though not wrong, has caused anxiety among the public. The Government replied that as the flood prevention wall was a private property, how the wall should be handled and repaired, or whether the wall should be demolished or how it should be demolished, was a private issue. Of course, we can say that there is nothing wrong with the Government's reply, as private matters should be handled by private parties.

However, the impact caused by such incident might not only involve private property rights or responsibilities, it may also affect people who walk pass or have unknowingly touched the damaged flood protection wall which contains asbestos. Has the Government considered that it should undertake more responsibilities and play a more important role in this respect, instead of saying that the Government is not responsible for handling any structures with asbestos containing material (ACM) on private land or in privately owned structures? I believe that the Government should do more to address the risks and uncertainties arising from structures containing ACM, be they in the urban areas or the New Territories, be they small houses or farmland.

When the Government answered our questions, it often said that monitoring was done through market mechanism. We should allow registered

contractors to handle structures or buildings containing ACM. These contractors have to comply with a series of requirements in conducting repair, maintenance or removal works, and the Government will be responsible for monitoring and supervision. Certainly, there is nothing wrong with this saying as well. However, what worries me is that, as pointed out by many civil organizations or concern groups for workers' health, as well as some Honourable colleagues, people may take risk and engage some unqualified or not fully qualified contractors for handling ACM due to decreasing number of contractors or service providers in the market and increasing costs. Who is going to bear the risk resulted and how should such risk be handled? When the market is not functioning, or if the number of service providers is insufficient or if the market price rises to a level that is unaffordable by the general public or landlords, is the Government well prepared to take actions? Of course, we do not want collusion between the Government and the business sector and transfer of benefits, but this is an issue related to the strategy of assessing and managing public safety and health risks. With such strategies in place, people will feel secured. Therefore, the Government must continue to follow up and address this problem.

The decision to prohibit the use of asbestos is also considered from the perspective of health. The Government is certainly duty-bound in this respect. Actually, the 60th World Health Assembly endorsed a Global Plan of Action on Workers' Health for 2008-2017, in which it is stated clearly that every government in the world has the responsibility to eliminate asbestos-related diseases. The word "elimination" is used and it categorically means eradication instead of management or reduction of risks. The risks should directly be wiped out. Hence, during the discussion in the Bills Committee, a question was raised. If tools used by workers contained asbestos, the dust created would affect the health of workers and how should the risk in this area be assessed? In this regard, should there be more guidelines and even legal restrictions to protect the health of workers, nearby residents and people affected by the project? This is a very important question pending answers from the authorities.

As for some proprietary Chinese medicines (pCm) with asbestos containing ingredients, such as actinolite and tremolite, there is no scientific evidence proving the extent of health risks caused to human body due to ingestion of pCm with asbestos containing ingredients or intake of pCm by mixing with water. Similarly, as caution is the parent of safety, we have to handle such potential risks carefully. If people do not even know which pCm have asbestos containing ingredients, the first step is to remind the public. The Government should also

discuss with the manufacturing companies of pCm or representatives of the relevant professional industry to see how to remind people to consider the potential risks when taking these pCm. I believe that such approach completely meets the expectation of the World Health Organization (WHO), and is the goal that different governments, communities and people around the world have been trying hard to achieve, that is, to eliminate asbestos-related diseases.

Deputy President, the WHO has also pinpointed in its work plan for 2014-2016 that we have to look into cases of exposure to asbestos, the main locations under exposure and the asbestos-related diseases. These so-called main locations of course include workplace, residence, schools, and so on. Therefore, it also echoes the problem I have just mentioned. If the Government does not have enough resources, policies and manpower to conduct a territory-wide asbestos survey of so many buildings in Hong Kong, so as to find out the locations of buildings with ACM and the risks involved, it should think of ways to resolve the problems concerned, instead of taking no action due to the difficulties involved. On the contrary, it is exactly due to the difficulties involved that we should respond to the WHO's requirement and complement the global action to find ways to examine the buildings in our work place, schools and living environment, so as to identify the potential risks associated with exposure to environmental asbestos.

As for the methods, I believe we can draw reference from certain overseas experiences. I hope that the authorities will not, after the passage of the legislation, assume that the legal spirit has been met by imposing restrictions on the import, export and transshipment of asbestos, and let buildings which used asbestos since mid-1980s off the hook. The authorities should not only start thinking about how to handle and resolve the problems only when they really arise. I believe that prevention is a very important strategy. The authorities should not only help people understand the asbestos-related risks, but also let them know the risks they are exposed to environmental asbestos. Such publicity work is important as well.

Deputy President, lastly, apart from expressing our support to this legislation amendment on behalf of the Civic Party, I would like to thank the Hong Kong Workers' Health Centre for attending meetings of the Bills Committee for many times to share with members their worries, opinions and analysis. I believe that the authorities have listened to their views expressed to us. For the series of problems they have raised but cannot be handled through

this legislation amendment, including the issues I have just talked about, I hope that follow-up actions will be taken through close collaboration among Honourable colleagues, workers, labour unions and the related sectors, so as to completely eliminate and remove the risks brought about by asbestos to Hong Kong.

I so submit.

MS CYD HO (in Cantonese): Deputy President, I welcome the legislative amendment proposed by the authorities to prohibit the use of asbestos.

In fact, many occupational diseases, such as pneumoconiosis, are incurable. Once a worker inhales asbestos fibres into his lungs, his respiratory system will be affected for the rest of his life and that may eventually lead to organ failure. The worker will not only suffer total incapacity during his life time, his life will also be shortened.

I think the current legislative amendment is not thorough enough. The Ordinance has provided long ago that "it does not prohibit a person from using asbestos or asbestos containing material in work carried out in an industrial undertaking". According to our understanding, industrial undertakings use asbestos containing material possibly for insulation of certain equipment or tools or prevention of ignition caused by frictional heat, that is, for the purpose of fireproofing.

Nowadays, however, there are substitutes for asbestos to serve insulation or fireproofing purposes. The laws which have been enacted or amended to protect the health of workers and the public have to be enforced consistently because asbestos may be released if the equipment or tools are old or damaged. Does the regulatory authority have the occupational safety awareness to protect workers properly? We have no idea at the moment.

In relation to building structures, the construction materials of many old buildings in Hong Kong contain asbestos. It has been suggested that there are 15 000 such buildings (including village houses) in Hong Kong. Some would even suggest that the number can be as high as 25 000, most of which were built before 1980. In many old buildings, asbestos is often found particularly in the roofs and canopies made of corrugated cement sheets. If a building ages,

damages and cracks will appear and asbestos will be released. If a building is in good condition, asbestos will be concealed in the construction materials, but when the building becomes old, asbestos will be released. However, do owners of old buildings have the relevant knowledge? Do they know how to maintain the building? Will they spend money out of no particular reason to engage a professional to inspect the building to find out if it contains asbestos?

The industry, and trade unions in particular, proposes that the Government should make a commitment to conduct a territory-wide asbestos survey of all the old buildings, so as to find out the number of old buildings with asbestos containing material and ascertain if the owners can shoulder the responsibility of building maintenance. This will help to prevent any release of asbestos which will have an impact on public safety. I urge the Government to consider and handle the matter seriously because the Government has spent \$1 billion to \$2 billion on the Operation Building Bright, but more often than not, only the external walls have been repainted and the end results are nothing more than the decoration of the exterior and the replacement of pipes.

When the construction materials of an old building (particularly an old building without an Owners' Corporation) are damaged, it will create a serious impact on the public. Under such circumstances, the Government has to make a commitment in subsidizing the owners to conduct an inspection of the building to check for asbestos. If the building contains asbestos, the asbestos has to be replaced immediately or even removed expeditiously and sent to a proper place with caution. The Government should adopt such a high standard in handling asbestos.

We are very grateful that during the scrutiny of the Bill, members of the Hong Kong Workers' Health Centre (the Centre) have provided us with a very detailed submission which covers facilities (including buildings) which require the use of asbestos in the industrial process and information about Chinese medicine. A doctor from the Centre attended two meetings of the Bills Committee to provide his opinions to members. He helped members understand that having asbestos containing ingredients in Chinese medicine was improper and he suggested prohibiting the importation of such Chinese medicine. In fact, there are many substitutes for asbestos containing ingredients in Chinese medicine and it is not necessary to use tremolite or actinolite to achieve efficacy.

During the scrutiny of the Bill, we have also become aware that the local industry will not import tremolite or actinolite to manufacture Chinese medicine and they will only import proprietary Chinese medicine containing asbestos. Therefore, a better approach is to impose a total ban on the importation of such proprietary Chinese medicine because if the capsule containing the medicine becomes old or damaged, it will be hazardous to the people taking it.

Deputy President, another area in which I am dissatisfied with the Bill is the exemption provided in the proposed section 83. The section, which is loosely drafted, only provides that "On application, the Authority may exempt a person from a prohibition imposed under section 80(1) if the Authority considers that the exemption — ". What are the grounds on which the Building Authority considers the applications? The answer is that the exemption may be granted if "the Authority considers that the exemption is warranted".

The provision is equivalent to saying, "Mothers are women." Any application, even one which has been shoddily completed, will surely provide certain justifications. However, the grounds and factors which the Building Authority will take into account in considering the applications have not been stipulated at all. I certainly understand that during the enactment process, the Government has to make allowance for unforeseen circumstances. Otherwise, the regulatory provisions may go too far, resulting in failure to deal with certain matters or even very urgent situations. In other Ordinances, a list of conditions for granting exemptions (a), (b), (c), (d) and (e), and so on, are often provided, such that when the authority considers whether or not to grant exemption, the scope of consideration will be more or less the same as those conditions listed in the Ordinance. There should not be too much difference between them.

Nevertheless, according to the current drafting, the Authority is vested with great power in granting exemptions. The proposed section 83(1)(a) provides that the Authority may grant an exemption if the exemption "... is warranted;" and the word "and" at the end connects it with the proposed section 83(1)(b) which provides that the exemption "would be unlikely to lead to a health risk to the community". The scope is very wide indeed. In the course of our scrutiny of the Bill, we have asked the Administration what does the term "the community" refer to and whether it refers to a specific number of people. During the SARS outbreak, an expert said that only one single case of SARS in the community would constitute an "outbreak in the community". Hence, does

the term "the community" in "would be unlikely to lead to a health risk to the community" in the proposed section 83(1)(b) refer to one person or more than one person?

Deputy President, during the scrutiny of the Bill, we have spent much time on debating the exemption provided in the proposed section 83. The Administration finally indicated that it would, through administrative means, incorporate the scope of consideration into a code of conduct or a set of guidelines which would be uploaded onto the Internet. Earlier, Mr Kenneth LEUNG has already told us his observations when he voiced his personal comments in his speech. He pointed out that at present, provisions which should be incorporated into a principal legislation would eventually be incorporated into a subsidiary legislation; provisions which should be examined slowly would go through the negative vetting procedure, so that the public and the legislature will only have a maximum of seven weeks to raise the views, scrutinize the Bill and conduct consultations; and provisions which should be incorporated into a subsidiary legislation would be dealt with by means of a code of conduct or a set of guidelines. We are very dissatisfied with the situation because the Government tends to circumvent the scrutiny of the Legislative Council by administrative means.

Deputy President, we have made it very clear that if, in future, the Government introduces another piece of legislation to this Council and the abovementioned situation arises again, we would propose a debate and raise our objections. During the scrutiny of the Bill, we have specifically told the official assigned to attend the meeting that the Secretary should clearly tell us the criteria for granting the exemption in his speech to be delivered at the resumption of the Second Reading debate on the Bill, and incorporate the factors for consideration into a code of conduct or a set of guidelines, so that the industry and the public will be clearly informed. This will also prevent liable persons from escaping punishment in case of litigation by reason of this widely drafted exemption provision of the Administration.

Deputy President, lastly, I would like to talk about an issue on drafting which relates to the Chinese rendition. The words "could not have reasonably known" in the Bill were translated as "亦按理不可能知悉" in the past. However, the new rendition has become "而按理亦不能知悉". We have asked the official whether there is any difference between the two because although the rendition has changed, both renditions consist of eight characters and

the biggest difference lies in "不可能知悉" and "不能知悉". The official replied at the time that there was no difference. We asked further, "In that case, why there is such a change?" The official finally replied that the new rendition could reflect the meaning of the English version more accurately.

If that is the case, we can then seriously consider whether the rendition of "而按理亦不能知悉" can completely reflect the meaning of "could not have reasonably known" in the original English text. However, if the official told us that there was no difference between the two renditions, but the change had to be made anyway, we really cannot accept it. I urge the Department of Justice to enhance communication with officials attending meetings to scrutinize the Bills, so as to respond to the concerns and questions raised by members.

According to the information gathered by the Legal Adviser, the new Chinese rendition of "而按理亦不能知悉" has generally been adopted in the other Ordinances. Our utmost concerns are clarity and consistency of the laws, and differences of rendition and drafting among the laws should be avoided. I urge the Department of Justice to pay attention to this point.

Thank you, Deputy President.

DR FERNANDO CHEUNG (in Cantonese): Deputy President, after striving for more than 20 years, we hope that this Bill which imposes a total ban of the use of asbestos can be passed today. I believe we are all aware about the health impact of asbestos. Construction workers responsible for demolishing structures with asbestos containing material (ACM) may directly handle ACM and may inhale asbestos fibre. They will of course be exposed to the highest risk.

How common is asbestos in Hong Kong? Deputy President, recently we still receive reports from organizations, informing us that large quantities of asbestos cement sheets have been found in many villages in the New Territories, such as the areas around Yin Kong Village in Sheung Shui. These ACM pose considerable threats to the health of residents at the moment. The use of asbestos is so common that the Lam Tin office of the Association for the Rights of Industrial Accident Victims, one of the major associations of the Alliance on the Banning of Asbestos, built with grilles containing asbestos. What we are talking about is that a community hall in the urban area of Lam Tin is constructed with ACM and residents go to that hall every day.

Deputy President, the building of The Hong Kong Polytechnic University in which I am teaching contains asbestos as well. I remember that some time ago, my department carried out renovation works and some walls had to be removed. At that time, the workers were slipshod, they just covered the area with blue and white canvas. When I walked past, I could see the removed material dropping straight from the upper to the lower floors through the canvas, and there was dust everywhere. I did not pay much attention to this at that time, but later when I asked the campus management office, it admitted that workers were indeed removing ACM, but the protective measures were very slipshod. Of course, that incident happened 10 years ago.

But today, there are still many buildings which were built in the 1980s or even before, and it is very likely that they contain ACM. When such buildings are demolished, the risk incurred is very high.

We of course support this legislation, but the problem is that some provisions are actually quite loose. Many people and organizations think that the Government should conduct an asbestos survey of buildings completed before 1986. It is most desirable to conduct an asbestos survey, but the manpower involved is most intensive. The Government can publish the relevant information after the survey, so that people would know which buildings contain asbestos. They will then pay attention in carrying out any construction project. Even if there are difficulties in conducting a territory-wide survey, we can still focus our effort in surveying public facilities completed before 1986 and label them with warnings. Let us take these grilles as an example. People may touch some of these grilles when they walk up and down the staircases, and such grilles are often exposed to wind and storms, leading to possible damages and impact on public safety.

Therefore, I consider the deputations' requests reasonable. The current legislations require someone to inform the Environmental Protection Department (EPD) if he suspects that any building contains asbestos. However, he has to comply with a series of procedures after such notification is made. He must engage a legally registered company for handling and removal of asbestos. The costs involved will of course be especially high. When many people, in particular, residents in the New Territories, carry out renovation, redevelopment or demolition works, they will not make special effort to notify the EPD about the suspected presence of ACM in the building. This is difficult for them to do so, right? The deputations therefore suggested implementing a report system in

respect of buildings with high risks. This is a report system on asbestos-free structures. Demolition works can only be conducted if the building is issued with an "asbestos-free certificate". This system ensures that during the demolition of old buildings, workers or nearby residents will not be affected by the asbestos released, which will in turn affect their health.

We are very concerned about the enforcement of this legislation. First, there are many private buildings. For example, there are many construction activities involving demolition and construction in the New Territories at the moment. There are also several large-scale projects in the New Territories in future, such as the North East New Territories Development Plan. Yin Kong Village in Sheung Shui is affected by such project and extensive demolition works will be conducted in future. Honestly, landlords or some elderly people may not have much money. What would the Government do when it carries out the demolition works? There are suggestions that the Government may have to establish funds for subsidizing eligible persons with financial needs to demolish buildings with ACM, so that the work can be handled in a safe way, instead of in a careless manner with a view to reducing cost and posing threats to public health as is in the case now.

In addition, there is no doubt that we should enhance monitoring. However, it is a big problem as to whether the EPD and the Architectural Services Department are capable of monitoring. Moreover, public education is also an issue worthy of concern. This is because many people still have no idea and are unclear about the presence of asbestos. Of course, during the scrutiny process, the Government has pointed out clearly that most of the corrugated asbestos cement sheets, as its name suggests, contain asbestos. However, there are still a lot of ACM, such as the grilles in this picture I am now holding. Therefore, public education is very important, in particular for workers. As there is now a shortage of such workers, some contractors even employ ethnic minorities to do the job. They have different languages from ours. If public education is done by preparing Chinese booklets for distribution in the Labour Department and the EPD, they will not be benefited. Thus, regarding public education, especially education targeting workers who will most likely be affected, I think suitable languages and communications should be applied, so that they would understand the risks they are exposed to.

All in all, we would like to express our gratitude to organizations such as the Alliance on the Banning of Asbestos, Hong Kong Workers' Health Centre and

Association for the Rights of Industrial Accident Victims for their efforts in this respect and their support to this Bill proposed by the Government. However, we are worried about the problems concerning law-enforcement and loose legislation, as mentioned by me just now, as well as the exemption arrangement mentioned by Ms Cyd HO. The granting of exemptions are not transparent, but based on an ambiguous definition such as "would be unlikely to lead to a health risk to the community". Indeed, it might be true that it is unlikely to affect public health as stated in the definition, but will exemptions be granted when it affects the health of workers? After the exemption is granted or during the process for application of exemption, should we let the public know that such project has applied for or has been granted with exemption, so that nearby residents or workers would know about the situation and be more alert?

Generally speaking, I support the Bill. Deputy President, thank you.

MR TANG KA-PIU (in Cantonese): Deputy President, on behalf of the Hong Kong Federation of Trade Unions, I speak in support of the passage of the Air Pollution Control (Amendment) (No. 2) Bill 2013. As a member of the Bills Committee, I have heard the opinions of various sectors, including the building sector, the trades in Chinese medicine and concern groups on workers' health at meetings of the Bills Committee. To sum up, although the existing provisions of the Bill have not been most tightly drafted and an exemption mechanism has been put in place, I hope that work in relation to the three lists will be carried out properly through administrative means even though it is not stipulated in the legislation.

The first list is a list of machinery with asbestos containing material (ACM) owned by the builders. An association of the industry has promised to conduct a survey on its members to compile a list of equipment and tools with ACM. Most of the examples given by the representatives of the industry relate to generators because the issue of insulation is involved. However, are the equipment and tools limited to generators and has anything been omitted? That is one of our concerns.

What we are more concerned about is that if there is any omission after the list has been issued, and if a worker uses the machinery or equipment concerned, where does the responsibility lie and what will be the protection for the worker? If a worker uses such machinery or equipment, it is certainly possible that the

contractor is aware of the risks of asbestos but remain silent because the machinery or equipment are not on the list, and it is also possible that the contractor is not aware of the risks. Questions about the list and issues of enforcement and protection are yet to be resolved. We urge the Environmental Protection Department (EPD) to publish the list as soon as possible, so that the trade unions and the public can monitor whether the equipment on the list are all that the builders have and whether there is any omission. Only front-line workers and trade unions know whether all the equipment owned by the builders are on the list. So much for the first list.

The second list is a list of proprietary Chinese medicine (pCm) with asbestos containing ingredients. After a number of discussions, members have divergent views on the very controversial issue of whether there are any highly authoritative and scientific studies or findings to prove the cancer risks of ingested pCm with asbestos containing ingredients, that is, with actinolite or tremolite. If there is a reasonable doubt, we should act in favour of the safety of the public. However, since we have not taken the step to legislate in this specific area, we should first enact a law with not too stringent provisions. Administratively speaking, as the Department of Health is responsible for regulating the sale or offer for sale of lawful pCm in Hong Kong, should it join with the EPD to issue a list on the brands and names of pCm with asbestos containing ingredients which are now on sale in the market. That is the responsibility of the Administration. Certainly, our bigger concern is when such medicine has expired, how should workers dispose them? How will medicine traders deal with the pCm with asbestos containing ingredients? That is also our concern and the question involves enforcement and administrative issues. We hope that the Environment Bureau and the EPD can liaise with other relevant departments to discharge their gate-keeping duties strictly.

The third list, which I believe is of utmost concern to the community, relates to the number of buildings in the territory with ACM, and the list should at least include the names of the Government buildings concerned. However, the Government continues to refuse to conduct a territory-wide survey of the buildings under its purview, for example, hospitals and education institutions. We have heard of a reason, that is, if sampling work is to be done on buildings which are in good condition, asbestos which has not been damaged will be released as a result, and it will do a disservice out of good intention. Frankly speaking, given the advancement in technology, I do not think that such an explanation can stand. We firmly believe that the Government should at least

manage the buildings under its purview properly. I hope the Government can seek professional advice in this respect, so as to avoid the recurrence of incidents similar to the asbestos incident of the University of Hong Kong. Ultimately, workers will be victimized and they may not even be civil servants. We maintain that the health of workers should be cared for, therefore, we hope that the Government will spare no effort in preparing the list.

Apart from the list of Government buildings, we are aware that the EPD is conducting a survey on the number of buildings with ACM in the urban areas. I understand that it is a very difficult task. There are many buildings in Hong Kong and buildings with ACM may not necessarily be found in the urban areas. Many building structures in villages which were built in the 50s or 60s may have ACM. Let me give an example. The Hong Kong Construction Industry Employees General Union has recently organized a visit to Sam Mun Tsai in Tai Po, it was noticed that there were many canopies composed of asbestos cement tiles at the seaside. Incidentally, it was also noticed that a number of households in CARE Village were carrying out reconstruction works to convert their two-storey blocks into three-storey blocks. We understand the difficulties of the work of the Government in this area, but since it is agreed that the asbestos problem imposes life-threatening risks, should it not be dealt with urgently? Certainly, we often see Mr MOK when we are discussing any environmental issues. Perhaps the EPD is responsible for too many issues and so no matter the topic under discussion concerns the replacement of diesel vehicles or the problem of asbestos at hand, Mr MOK is responsible for dealing with them. Sometimes I think that is unfair to him and I hope that the Government can send many other officers to resolve the problem.

We know that asbestos is a fatal substance and we stress that inspection and demolition of asbestos works are unlawful unless carried out by a designated and registered asbestos contractor. But interestingly, according to the information on a written question raised in the Legislative Council, while the Government or the EPD has admitted that there are at least 1 100 buildings with ACM in the urban areas, the number of prosecutions instituted has been decreasing year by year, with 86 cases in 2008, 68 cases in 2009, 54 cases in 2010, 48 cases in 2011 and 35 cases in 2012. Are the decreasing numbers of prosecutions instituted against non-compliance an indication that the public and Owners' Corporations have become more aware of the importance of engaging registered contractors, or is it an indication that the authorities have failed to institute prosecutions? I hope the Government can give us an answer.

Nevertheless, be it the "three-nos" buildings or the single-block buildings with Owners' Corporations run by elderly owners, many small owners have indicated that the costs of any asbestos removal works to be initiated by them have become higher with rising construction costs and wages. The interest-free loan offered or the financial assistance capped at \$10,000 provided to each Comprehensive Social Security Assistance recipient at present is only a drop in the bucket. With regard to buildings with ACM, "there would be one block less after a building was demolished". Since no such buildings will be built in future and the demolition works will not be an unfathomable abyss, will the Government consider in the long term to carry out works of a large-scale to remove such "bombs" from the urban areas? These bombs will eventually cause harm to the most helpless elderly owners or even workers, and I hereby urge the Government to consider the proposal.

We do not have any officer from the Labour Department to attend the meeting today. However, we have received a complaint from a group of elderly workers suffering from silicosis. They are now 60 to 80 years old and they have been diagnosed of the illness from 1980 to 1993. The reason for their complaint is that they were paid a one-off compensation payment under the compensation system at the time. The amount of compensation was calculated on the basis of a life expectancy of six years only which worked out to an amount approximately equivalent to six months' wages. However, with technological and medical advancement, they have lived to this date and the subsidies given back then are insufficient to pay for their current medical costs and daily needs. I am certainly aware that this matter is directly under the purview of the Labour Department and the Pneumoconiosis Compensation Fund Board, but I still hope that the authorities will relay the matter to them, so that the complaint of this group of elderly workers who have been diagnosed of silicosis from 1980 to 1993 can be dealt with.

With these remarks, I support the enactment of the legislation. Thank you.

MR WONG KWOK-HING (in Cantonese): Deputy President, I support this Amendment Bill. Mr TANG Ka-piu has just made a speech expressing the points of view of the Hong Kong Federation of Trade Union. I am just going to make some brief comments.

I hope that the Government can pay closer attention to the decade-old public housing estates. In these housing estates, such as Hing Wah Estate on the Hong Kong Island, many public facilities contain asbestos. As a matter of fact, the Government is indeed obliged to inform the public about the risk involved in building structures with asbestos containing material (ACM), as the public has the right to know. If the public and residents are informed, they can stay away, or take some protective or preventive measures. However, at present the Housing Department has not posted any notice to inform the residents about which estate facilities contain ACM. This is very risky because people may unknowingly carry out some work or activities that may damage the facilities which contain ACM, such as the beautiful facilities or partitioning facilities along the corridor, pedestrian walkways or parks. People may have not the awareness to take precaution because they are not informed of the situation.

Therefore, I think it is most important to inform estate residents of the situation. I hope the Director can immediately work with the Housing Department to compile statistics about public rental housing under the Housing Department and the Hong Kong Housing Society, and list out the numbers of facilities which contain ACM. Also, they should inform residents through various effective means so that they can take precautions. In addition, effective protection should be taken when monitoring maintenance works. This is a very important measure to prevent maintenance workers from developing silicosis upon inhalation of asbestos dust. I would like to mention these two points for additional comments and I hope that Secretary WONG Kam-sing can follow up on the issue. Thank you, Deputy President.

MR LEUNG KWOK-HUNG (in Cantonese): Deputy President, after listening to Mr WONG Kwok-hing's speech, I am really touched. He has expressed concern over the massive use of harmful construction material in public housing either due to the Government's ignorance or shamelessness, or for the sake of saving money.

I recall that this Council has discussed the enactment of an archives law to see if the Government should preserve certain records. The speakers were sincere in presenting their views, but the listeners shut their ears. Mr WONG Kwok-hing is pretty busy as he has left soon after I started speaking. Just now, Mr WONG Kwok-hing was right in saying that the Government is obliged to take actions. I nonetheless appreciate that the Secretary's suffering is beyond our

understanding. What books or records does he have to show that the Government had abused the use of asbestos cement sheets or other similar materials? I wonder if he has the relevant information in hand, and if not, then despite the fact that the Environment Bureau has taken over from the Environmental Protection Department the responsibility to deal with all matters that cause harm to the environment, I really doubt if he can obtain all the records for this end. This is why I always say that this Council is insane for it is completely incapable of conducting an overall review of the problems.

Just like today, we are discussing some ancient problems. Perhaps I should not say ancient, but they did occur a long time ago. Mr WONG Kwok-hing has returned. The majority of Members supported the enactment of an archives law to ensure that the destruction of records by the Government must be justified. The incident that triggered the discussion at that time was the allegation that the Government had destructed a huge pile of documents, the height of which doubled that of the former Connaught Building, when it moved into the Central Government Complex next to us, and no one knew if there were documents of the Housing Department. At that time, this Council considered that instead of wasting time on this matter, we should focus our efforts on more serious jobs. What good does that huge pile of paper, the height of which doubled that of the former Connaught Building, do to most Hong Kong people? And yet, this is precisely the question under discussion. The Government does not act on any justifications; even if it was asked to explain why the television licence application was rejected, it just refused to reply and simply said that the case has been taken to the Court. The Government is not telling us even if it knows something, not to mention that it knows nothing at all. In the absence of an archives law to provide for the preservation of the relevant files and records to facilitate the monitoring of the Government by Hong Kong people, including the Legislative Council, what can the Government do apart from wearing a crying face?

From my personal experience, I can say that the situation is indeed very miserable. What I mean is that during the relocation of the Chai Wan Resettlement Area, the Housing Department had played dirty tricks by saying that renovation would be carried out in only half of the units, thereby leaving the remaining residents living in dust during the renovation work. The building which I lived was built between the late 1960s and early 1970s, and it certainly contained asbestos cement sheets. If we had discovered the use of asbestos cement sheets, we would have pointed it out then. But if they were mixed with

other construction materials and became built-in materials for insulation or other purposes, no one would be aware of it. Therefore, Mr TANG Ka-piu, who is very careful, has asked a good question about why cases of non-compliance have decreased when 1 100 urban buildings are confirmed to contain asbestos cement sheets or similar materials? This is simply because no verification can be done.

Even if Mr TANG Ka-piu's views were accepted, but whatever the reason is, given that there is only one government — even although the current-term Government does not have a part to play in the evil things done by the previous Government, it is duty-bound to clean up the mess — it should not turn a blind eye to the wrongdoings of the previous Government. The current-term Government should not act like LEUNG Chun-ying, who cares more about getting the honours than resolving the problems inherited from the previous Government.

Therefore, if this Council is still sensible, it should revisit the enactment of an archives law after considering the present case. The documents, books and records kept by the Hong Kong Government may not only have historical value, but also carry an actual value which enables us to know the circumstances leading to the disaster, how bad the situation is and what necessary remedial actions should be taken. Thus, it is now time to enact the relevant law. Despite the fact that Mr WONG Kwok-hing has given a high-sounding speech earlier, he was silent on the archive law.

Deputy President, asbestos does have very frightening effect as it causes silicosis, and the situation of those old workers is really heart-rending to me. On the other hand, Shenzhen residents have opposed Hong Kong's proposed expansion of a landfill because when the wind blows to Shenzhen, it may bring disastrous consequences. They then called for support and it is amazing that they have collected 1 million signatures. This shows that the place where we live has been designated by the Central Authorities (that is, the Chinese Communist Party) as an area suitable for living, and the Mainland considered that an expansion of the landfill would have an implication on them. Although we have different jurisdictions and Shenzhen cannot intervene, the act of Shenzhen residents has sent a clear message to Secretary WONG Kam-sing that even if "Long Hair" cannot deal with him, they can. Even if Dr Fernando CHEUNG cannot deal with him, they can fix him by sending a reputed Mercedes Benz here, just like WANG Yang's private meeting with LEUNG Chun-ying.

Secretary WONG Kam-sing, you will apply for funding for the expansion of the landfill later on. How pathetic! Another thing is — whenever I speak, they all left because my words are not music to their ears — the anti-nuclear issue. Secretary WONG Kam-sing, nuclear pollution is said to be very serious, right? Mr WONG Kwok-hing will propose a motion later today concerning the complaints about the radiofrequency radiation emitted by mobile base station mobile radio base stations installed by various telecommunications companies, which has caused some people to suffer from headaches and neck pain. While this may be true and I also share the hatred against those telecommunications companies, why did you make high-sounding remarks on the weak radiofrequency radiation but remain silent on anti-nuclear issue. It is obvious that the nuclear stations were built in our vicinity. Even if we do not talk about the Daya Bay Nuclear Power Plant which was built in a deceptive manner, construction of nuclear power plants is in full steam in different parts of the Guangdong Province. Some plants even lie above the seismic zone. Many people insisted that Hong Kong will reach a dead end if it does not integrate with the Mainland, and it is good for the Mainland to build nuclear plants to provide power supply to us. What can we say? Other people stated that even if there is radiation, our Mainland counterparts will be affected in the first place. This is nothing but a selfish remark as radiation is border free. Being the Secretary for the Environment, Secretary WONG Kam-sing has supported the construction of nuclear power plants. This Council is really insane. It always chides the Government a little but helps in a big way, but remains silent when it comes to serious discussion topics.

Another thing that I am going to talk about is something which I guess the Deputy President should be well aware of, and it is the air pollution problem in Hong Kong. Cruises now entering our magnificent Victoria Harbour are using the worst fuel. While the authorities of other reputed harbour have all declared that they do not welcome cruises that have not installed purifiers or do not use quality fuel to minimize pollution to their beautiful harbour, Hong Kong is doing the otherwise. We have put business above all things else as the insufficient throughput has rendered us unable to achieve the economies of scale, which will again lead us to a dead end. Today, our port is still top on the list and remains the only port that does not restrict the entry of cruises using poor fuel. This is probably the root cause of serious pollution. Worse still, we have allowed the developers to erect screen-like buildings along the harbourfront, such that pollutants in the air cannot be dispersed.

Are Members aware of these? Mr LEUNG, why are you looking at me? This is the source of serious pollution, but I have been accused of not showing respect for the elderly by exhaling hazardous substances that pollute Hong Kong when I smoke. The Government has spent much effort on eliminating cigarette smokers and even claimed to further increase the selling price of cigarettes to \$80 per pack, but this is a lie. Secretary WONG Kam-sing, you should know what causes the most serious pollution. Aircraft is another cause of pollution. Yet, no action has been taken but only empty words. Why did I go so far? Because there is only one government and one policy on environmental protection. What actually is in the mind of the Government? It is not prepared to show what is up in its sleeves, nor prioritize according to the potential hazard. Instead, it only plays to the gallery. Perhaps the Secretary is not doing this, but our Government is.

Deputy President, tossing a stone in the water will raise a thousand ripples. Although we are denouncing how unjust the Government is today, there is no record or book to prove how unjust it is. Instead of formulating remedial proposals, the Government has merely adopted some stop-gap measures. When it comes to environmental protection, the emphasis is reward. Many people asked me why all policies end up favouring only the car dealers, while the use of vehicles are subject to various restrictions. Why did the Government ban the use of certain vehicles in such a broad-brush manner that shops providing repair services or selling spare parts no longer have business to do but they did not get any compensation? This is simply because they have neither power nor say, and this explains why the functional constituency elections have worked so well. When I visited the community, owners and drivers of old vehicles would express their grievances and ask me to chide the Members concerned in this Council so as to vent their anger. I am now doing this for them. This is the problem that we can all see and are duty-bound to resolve. "Covetous TSANG" promoted environmental protection in the hope of transferring benefits to his "parents-in-law" through the promotion of compact fluorescent lamps. Car dealers always receive the largest benefit from government policies, leaving members of the public who do not have any bargaining power to utter in pain under the harsh policies generated from good policies.

Let us go back to the issue which the Hong Kong Federation of Trade Unions is most interested in, that is, how should books and records be disposed of? Secretary, can you undertake to use public funds to properly deal with the 1 100 buildings which allegedly contain asbestos cement sheets, as Mr TANG

Ka-piu has said, instead of granting \$10,000 to CSSA households for the demolition? As the Secretary has mentioned the lack of job opportunities, the Government should take this opportunity to make our community more healthy using public money. This is what the Government is obliged to do. It should not follow the Mainland Government to undertake "white elephant projects" and pool its capital to increase fixed assets, investments and basic facilities in the hope of propelling the economy. This is what the Government should do and should expeditiously get it done. Also, it should undertake to properly deal with those 1 100 buildings and recruit more workers for the demolition works. Furthermore, it will search for and make public the relevant books and records, and ban the use of asbestos cement sheets in a year or two. LEUNG Chun-ying, can you and do you dare to do so?

Deputy President, I am just a passer-by who so happen heard Members' speeches in the lift and decided to speak. Secretary, let us not talk about the landfills or any grand projects before we get those things done. Please tell your colleagues that workers who have now become silicosis patients may live for another six years or stay in the hospitals for 16 more years, so do help them. People who have listened to my speech today should send him a message through "WhatsApp", urging him to expeditiously do something for the well-beings of Hong Kong people and stop giving remarks that merely aim to bring benefits to the consortium.

Deputy President, that is all I have to say.

DEPUTY PRESIDENT (in Cantonese): Does any other Member wish to speak?

(No Member indicated a wish to speak)

DEPUTY PRESIDENT (in Cantonese): If not, I now call upon the Secretary for the Environment to reply. The debate will come to a close after the Secretary has replied.

SECRETARY FOR THE ENVIRONMENT (in Cantonese): Deputy President, first of all, I am grateful to Mr Kenneth LEUNG, who is the Chairman of the Bills Committee on the Air Pollution Control (Amendment) (No. 2) Bill 2013 (Bills

Committee), members of the Bills Committee and staff of the Legislative Council Secretariat for their hard work. Over the past two months, the Bills Committee has conducted five meetings, one of which was a public hearing to collect public views. It has completed its scrutiny of the Bill for the resumption of Second Reading debate today. I am also thankful to those Members who have expressed their views today.

The purpose of the Government in proposing this Bill is to ban the import, transshipment, supply and use of all forms of asbestos in Hong Kong so as to better protect public health.

To reduce the public's risk of exposure to asbestos fibres, we have added provisions to the Air Pollution Control Ordinance (the Ordinance) to ban the import and sale of the more hazardous blue asbestos (crocidolite) and brown asbestos (amosite) since 1996. To prevent release of asbestos fibres into the environment, the Ordinance requires the engagement of registered qualified professionals to conduct work and related activities involving asbestos containing Materials (ACM) in accordance with the provisions of the Ordinance and a set of codes of practice.

To further avert the risk of asbestos and prevent the public from exposure to environmental asbestos, the Bill makes amendments to the Ordinance and the Factories and Industrial Undertakings (Asbestos) Regulation to implement the total ban of asbestos. The Bill bans the import, transshipment, supply and use of all forms of asbestos except goods in transit and proprietary Chinese medicine being registered under the Chinese Medicine Ordinance, so as to stop asbestos from entering Hong Kong.

The Bill retains the existing exemption mechanism so as to deal with the special cases. The Government will only consider granting an exemption if the conditions of exemption stipulated by the law have been met. To enhance the transparency of work, the Environmental Protection Department (EPD) has, in response to the suggestion of the Bills Committee, uploaded the factors to be considered in processing an application for exemption on the webpage of the EPD for public information.

As some Members have expressed concerns about certain details earlier, I have information to share with them now. In considering whether an exemption is warranted, the Authority will take into account a number of factors, including:

first, whether an asbestos free substitute is available; second, whether there will be serious disruption to a public service if the application for exemption is not granted and third, whether there will be serious safety problem or risk to human life if the application for exemption is not granted. In considering whether an exemption would be unlikely to lead to a health risk to the community, factors that the Authority will take into account include: first, the quantity of the asbestos or ACM involved; second, the precautionary measures to be taken; third, the location and activity involved; and fourth, the likelihood the asbestos or ACM involved will be disturbed.

During the scrutiny of the Bill by the Bills Committee, a member has suggested that proprietary Chinese medicine with asbestos containing ingredients should be so labelled and attached with a warning. The Department of Health has relayed the suggestion to the Chinese Medicine Council of Hong Kong (the Council) for consideration and the Chinese Medicines Board under the Council is now seeking legal advice on the matter. The Council has also developed practising guidelines which provided that Chinese medicines traders should comply with the regulatory requirements of the Waste Disposal Ordinance in handling unserviceable, expired and recycled drugs.

Moreover, the EPD has been promoting public awareness of asbestos and enhancing their knowledge of the proper handling of asbestos through posters, leaflets and educational videos which have been uploaded to the EPD's webpage, informing the public of the requirements and points to note about removing ACM. To further enhance public awareness of ACM, the EPD has planned to work with the Pneumoconiosis Compensation Fund Board to publish a booklet about ACM to help the public identify their presence. In addition, to raise the awareness of asbestos among practitioners of the construction industry, the EPD has uploaded a list of machinery/products which may contain ACM to its webpage for reference of the practitioners. The list will be updated upon receipt of further information from the Hong Kong Construction Association. The Government will discuss with the Construction Industry Council with a view to formulating more appropriate and effective promotional measures. The leaflets on asbestos will also be printed in different languages for reference of practitioners of the construction industry who are ethnic minorities, so as to enhance their awareness of asbestos containing materials.

Furthermore, to assist owners of old buildings in handling ACM properly during renovations, the Government has provided loans and grants to owners in

need to alleviate their burdens in undertaking building maintenance, including the Building Safety Loan Scheme administered by the Buildings Department and Building Maintenance Grant Scheme for Elderly Owners administered by the Hong Kong Housing Society (HKHS). Besides, the HKHS and the Urban Renewal Authority (URA) also provide a Home Renovation Interest-free Loan for owners who need to repair their home. Since April 2011, the HKHS and URA co-implemented a one-stop Integrated Building Maintenance Assistance Scheme. Owners can simply complete one set of application forms for making multiple applications to the aforementioned loans and grants.

Some Members are concerned about conducting a territory-wide asbestos survey. We have to understand that in case a detailed asbestos survey is conducted, sampling will inevitably disturb the ACM and asbestos fibres may be released as a result. Since ACM are safe under normal and undisturbed circumstances, the EPD considers that conducting a territory-wide survey on ACM in buildings is not the most appropriate method to deal with the problem.

Furthermore, some Members are concerned about the relationship between the Bill and the Factories and Industrial Undertakings (Asbestos) Regulation (Cap. 59AD). In fact, the Bill also proposes to amend the said Regulation to tighten up the control on the use of asbestos in industrial undertakings, including prohibition of any work with chrysotile in an industrial undertaking and increase of the penalties for certain offences which relate to the use of or working with asbestos.

A total ban of asbestos in Hong Kong is supported by the public and the stakeholders. The labour and medical associations have also requested early implementation of the proposal. If the Bill is approved by the Legislative Council, we will publish the commencement date in the Gazette as soon as possible and our target is to commence implementing the total ban of asbestos on 4 April this year.

Deputy President, I propose to resume the Second Reading of the Bill, and call on Members to support and endorse it, so that the total ban of asbestos may come into effect as soon as possible.

Thank you.

DEPUTY PRESIDENT (in Cantonese): I now put the question to you and that is: That the Air Pollution Control (Amendment) (No. 2) Bill 2013 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

DEPUTY PRESIDENT (in Cantonese): Those against please raise their hands.

(No hands raised)

DEPUTY PRESIDENT (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

CLERK (in Cantonese): Air Pollution Control (Amendment) (No. 2) Bill 2013.

Council went into Committee.

Committee Stage

DEPUTY CHAIRMAN (in Cantonese): Committee stage. Council is now in Committee.

AIR POLLUTION CONTROL (AMENDMENT) (NO. 2) BILL 2013

DEPUTY CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Air Pollution Control (Amendment) (No. 2) Bill 2013.

CLERK (in Cantonese): Clauses 1 to 12.

DEPUTY CHAIRMAN (in Cantonese): Does any Member wish to speak?

(No Member indicated a wish to speak)

DEPUTY CHAIRMAN (in Cantonese): I now put the question to you and that is: That clauses 1 to 12 stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

DEPUTY CHAIRMAN (in Cantonese): Those against please raise their hands.

(No hands raised)

DEPUTY CHAIRMAN (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

DEPUTY CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Bills

DEPUTY PRESIDENT (in Cantonese): Bill: Third Reading.

AIR POLLUTION CONTROL (AMENDMENT) (NO. 2) BILL 2013

SECRETARY FOR THE ENVIRONMENT (in Cantonese): Deputy President, the

Air Pollution Control (Amendment) (No. 2) Bill 2013

has passed through Committee without amendments. I move that this Bill be read the Third time and do pass.

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Air Pollution Control (Amendment) (No. 2) Bill 2013 be read the Third time and do pass. Does any Member wish to speak?

(No Member indicated a wish to speak)

DEPUTY PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

DEPUTY PRESIDENT (in Cantonese): Those against please raise their hands.

(No hands raised)

DEPUTY PRESIDENT (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

CLERK (in Cantonese): The Air Pollution Control (Amendment) (No. 2) Bill 2013.

MOTIONS

DEPUTY PRESIDENT (in Cantonese): Motions. Proposed resolution under the District Councils Ordinance to approve the District Councils Ordinance (Amendment of Schedules 1 and 3) Order 2013.

Members who wish to speak on the motion will please press the "Request to speak" button.

I now call upon the Secretary for Constitutional and Mainland Affairs to speak and move the motion.

PROPOSED RESOLUTION UNDER THE DISTRICT COUNCILS ORDINANCE

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Deputy President, I move that the District Councils Ordinance (Amendment of Schedules 1 and 3) Order 2013 (the Amendment Order) be approved. The purpose of this piece of subsidiary legislation is to implement the adjustment to the boundaries of the Eastern and Wan Chai Districts and the related amendment to the number of elected members of the Eastern and Wan Chai District Councils (DCs), starting from the fifth-term DCs which will commence operation on 1 January 2016.

During the review of the number of elected seats for the fifth-term DCs, there were views suggesting that the Wan Chai DC would have a relatively small number of elected seats and the Eastern DC would have a relatively large one, resulting in possible impact on the operation of both DCs, and views suggesting that the Government might consider adjusting the boundaries of the Eastern and Wan Chai Districts by transferring some DC elected seats from the Eastern DC to the Wan Chai DC. The proposal to transfer the area of the existing Tin Hau and Victoria Park DC constituency areas (DCCAs) from the Eastern District to the Wan Chai District was considered as the most feasible options.

We launched a formal consultation last summer with the Eastern and Wan Chai DCs, local residents and the public on the following two options, namely, whether to transfer the two existing Tin Hau and Victoria Park DCCAs from the Eastern District to the Wan Chai District or to maintain the *status quo*. The outcome of the consultation indicates general support by the Eastern and Wan Chai DCs, local residents and the public for the transfer of the existing Tin Hau and Victoria Park DCCAs from the Eastern District to the Wan Chai District.

Therefore, our recommendation is to amend Schedules 1 and 3 to the District Councils Ordinance to formally adjust the boundaries of the Eastern and Wan Chai Districts in order to reflect the transfer of the existing Tin Hau and Victoria Park DCCAs from the Eastern District to the Wan Chai District, and to correspondingly revise the number of elected seats of the Eastern DC from 37 to 35 and the number of elected seats of the Wan Chai DC from 11 to 13.

The Chief Executive in Council made the Amendment Order at the Executive Council meeting on 22 October 2013 to implement these adjustments.

The House Committee of the Legislative Council examined the Amendment Order at its meeting on 1 November 2013 and decided that there was a need to form a Subcommittee on Subsidiary Legislation to scrutinize the Amendment Order. The Subcommittee on Subsidiary Legislation has completed the scrutiny after holding three meetings. I wish to take this opportunity to thank Mr IP Kwok-him, Chairman of the Subcommittee, and other Subcommittee members for their work.

The school net arrangement for the three public schools in the area of the two DCCAs is the major concern of Subcommittee members during the scrutiny of the Amendment Order.

At present, admission of students to Primary One and Secondary One in public sector schools is administered through the Primary One Admission (POA) System and the Secondary School Places Allocation (SSPA) System respectively. School places without any restriction by virtue of school net, that is, those under the Discretionary Places stage and Part A "Unrestricted School Choices" of the Central Allocation stage, could take up about 55% of a school's Primary One places and about 39% of a school's Secondary One places.

Subject to the passage of the Amendment Order, a primary school and two secondary schools will become located in the Wan Chai District instead of the Eastern District from 1 January 2016. Any implication that the Amendment Order may bring about to the school net of the schools concerned or the so-called "school places allocation system" should however take effect from the 2016-2017 school year, that is, the school year beginning in September 2016.

According to established mechanism, the Education Bureau has consulted the POA Committee and SSPA Committee, and will adopt the following arrangements to facilitate the concerned schools to adjust to the change in school net.

For the primary school concerned, the POA Committee has advised that, in principle, the practice of demarcation of school nets based on district administration boundary should continue to be adhered to, and that relevant stakeholders should be consulted through the kindergartens on the proposed transfer of the primary school from Net 14 to Net 12 under the POA. The POA Committee has also reconfirmed that the established arrangement of avoiding disruption to students already in the primary school concerned should in principle

be adopted. Specifically, students studying in the primary school who will participate in the SSPA from 2016 to 2020 will be provided with the option to choose from participating secondary schools in either the Eastern District or Wan Chai under the SSPA Central Allocation of Restricted School Choices.

Besides, as regards the two secondary schools concerned, the SSPA Committee has remarked that there is still some time to prepare for the cycle of 2016; the relevant discussion will continue at the SSPA Committee's next meeting in March this year to be followed by consultation of stakeholders by the Education Bureau.

In line with the administrative districts, the whole territory is divided into 18 secondary school nets. When the Amendment Order takes effect, the two secondary schools will be transferred to the Wan Chai District. This notwithstanding, to facilitate the concerned schools and students to adjust to the change in school net, the Education Bureau is prepared to follow the established practice to allow these two schools to net some school places to the Eastern District for Central Allocation to primary students studying in schools in the district, in principle, in each SSPA cycle until the 2014 Primary One cohort is admitted to Secondary One in the 2020-2021 school year. The Education Bureau will consult stakeholders and schools on the number of places concerned. The Education Bureau has engaged the two secondary schools on the relevant arrangements and the schools have indicated in-principle agreement to these arrangements. The Education Bureau will also follow up on the views of the schools on other facilitating arrangements and render necessary assistance.

During the scrutiny of the Amendment Order by the Subcommittee, we have confirmed that the implementation of the Amendment Order will not affect the provision of services to the public by various bureaux and departments in the two Districts concerned.

Deputy President, I hope that the Amendment Order will be approved today, so that the Electoral Affairs Commission can carry out the follow-up work as soon as possible, that is, to make recommendations for the demarcation of constituency boundaries for the DC ordinary election to be conducted in 2015 having regard to the new District boundaries and the correspondingly revised number of seats, and to make preparations for that election accordingly.

I invite Members to approve the Amendment Order to implement the adjustment to the boundaries of the Eastern and Wan Chai Districts and the related amendment to the number of elected members of the Eastern and Wan Chai DCs starting from the fifth-term DCs which will commence operation on 1 January 2016.

Thank you, Deputy President.

The Secretary for Constitutional and Mainland Affairs moved the following motion:

"RESOLVED that the District Councils Ordinance (Amendment of Schedules 1 and 3) Order 2013, made by the Chief Executive in Council on 22 October 2013, be approved."

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for Constitutional and Mainland Affairs be passed.

MR IP KWOK-HIM (in Cantonese): Deputy President, I make this report in my capacity as Chairman of the Subcommittee on District Councils Ordinance (Amendment of Schedules 1 and 3) Order 2013 (the Subcommittee). The Subcommittee held three meetings with the Administration, and received views from the public and deputations at one of the meetings.

The District Councils Ordinance (Amendment of Schedules 1 and 3) Order 2013 (the Amendment Order) proposes that the boundaries of the Eastern and Wan Chai Districts be adjusted to reflect the transfer of the area of the existing Tin Hau and Victoria Park District Council (DC) constituency areas (DCCAs) from the Eastern District to the Wan Chai District (two-DCCA proposal); and the number of elected seats of Eastern DC be revised from 37 to 35, and the number of elected seats of Wan Chai DC be revised from 11 to 13, from the fifth-term DCs correspondingly.

Some members were concerned that the difference in the number of elected seats between Eastern and Wan Chai DCs would still be large after implementing the two-DCCA proposal and hence, they suggested transferring more DCCAs to

Wan Chai DC. But the Administration took the view that in considering any proposal of introducing changes to District boundaries, matters including district identity, residents' acceptance, views of community personnel and impact on the provision of public services have to be taken into careful consideration. Based on views received during the public consultation exercise, the Administration believed that the transfer of more than two DCCAs from Eastern DC to Wan Chai DC would meet relatively stronger opposition from local residents, while the present proposal had the support of Eastern and Wan Chai DCs, the local residents and the public.

In the course of scrutiny, members were generally concerned that subject to the passage of the Amendment Order, three public sector schools would become located in the Wan Chai District instead of the Eastern District when the Amendment Order took effect from 1 January 2016. The Subcommittee received the views from the representatives of the two relevant secondary schools. In gist, they were concerned about the difficulties in student intake should their school net be transferred to the Wan Chai District. Members of the Subcommittee thus urged the Administration to adopt measures in order to address the schools' concerns properly. Subsequently, the Administration decided that after the commencement of the Amendment Order, the schools concerned would be allowed to net some school places to the Eastern District for Central Allocation to primary students studying in schools in the district. As clearly indicated by the Secretary just now, this arrangement will be valid until the 2020-2021 school year. The two schools concerned have already indicated in-principle agreement to the arrangements. Regarding the affected primary school, in order to avoid disruption to its existing students, students now studying in the school would be allowed to choose from participating secondary schools in either the Eastern District or Wan Chai District under the central allocation of the Secondary School Places Allocation System in the relevant years.

The Administration also confirmed that the implementation of the Amendment Order would not have any impact on the provision of services to the public in the two DCCAs concerned. Separately, some members were concerned about whether the Census and Statistics Department (C&SD) could provide statistical data, on a need basis, down to DCCA level for the two DCCAs concerned, to facilitate academic analysis in the future. The Administration undertook that after the implementation of the Amendment Order, the C&SD would provide the relevant statistics as far as practicable.

The Subcommittee has not proposed any amendment to the Amendment Order.

Next I would like to express my personal views. The Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) supports the Amendment Order.

Deputy President, with the growth in population as well as the abolition of all DC appointed seats with effect from the fifth-term DCs, it is necessary and essential to review the number of seats in various DCs for the sake of ensuring the effective operation of DCs. All along, among various DCs, the Wan Chai DC has the least number of elected seats, while the Eastern DC, Sha Tin DC, Kwun Tong DC and Yuen Long DC all have over 30 seats. In respect of elected seats, Eastern DC, in particular, has the greatest number at 37 seats.

I think it is far from ideal for any DC to have too many or too few seats because from the perspective of the actual operation of DCs, having an optimum number of seats is critical. It is precisely due to this reason that the Amendment Order is made to implement the relevant adjustments to the number of elected seats in the Wan Chai DC and Eastern DC because with effect from the fifth-term DCs, all appointed DC seats will be abolished such that DCs in the urban area will only have elected seats — of course, there are still ex officio members in the DCs in the New Territories. Hence, after the abolition of the DC appointment system in the urban area, the Wan Chai DC will only be left with 11 members after the reduction of the two current appointed seats. Considering the demographic structure or the overall population of the district, it is unlikely that its population will increase as a result of its current or future development, and without population growth, it is certain that with effect from the fifth-term DCs, the number of elected seats in the Wan Chai DC is 11, that is, the entire DC will only consist of 11 elected members. In that case, the reality is that the actual operation of the Wan Chai DC would become difficult. If we want to avoid this situation, can the number of seats be increased? As I just mentioned, it is unlikely that the population of the district will grow significantly. It seems that the only way out is through making other adjustments. Hence, from this Amendment Order, I note that the Administration's proposal is to adjust the geographical boundaries of the two DCs, such that some of the 37 elected seats of the colossal Eastern DC would be transferred to the Wan Chai DC. I think the present two-DCCA proposal is very appropriate because in the minds of many people, Causeway Bay is located in Wan Chai and has a closer relation with Wan

Chai. Hence, the present arrangement to preserve the 13 seats in the Wan Chai DC is also reasonable.

Regarding the Eastern District, I personally consider that the number of seats in the Eastern DC is indeed on the high side. Of course, having a large DC means that various views can be tendered by more members in the discussion process, but in terms of the DC's actual operation, having too many members may mean less speaking time for individual DC members — in fact, I know that a speaking time limit has already been imposed — and without sufficient speaking time, they may not be able to express their views fully. Therefore, I consider that the present arrangement proposed by the Government reasonable. Of course, in the scrutiny process, some members of the Subcommittee held that whether a more substantial adjustment should be made, that is, the number of elected seats in the Wan Chai DC should not merely be increased by two, with some members suggesting an increase of four seats, and some suggesting a transfer of about 11 seats. Regarding these views, I am aware that the Government has actually received similar views during its previous consultation. Initially, I also considered such an arrangement in order, but during the discussion on this Amendment Order, I notice that actually a long time is required for the development of and consultation on such a proposal before implementation because, to say the least, some schools would be affected — as we note in the present exercise, quite a number of views and opinions have been expressed on the school net arrangement. Therefore, the Government's proposed delineation of the boundaries of two DCs would involve complicated issues in respect of the provision of public services, as well as the reaction of residents. Having considered various factors, we agree that the present arrangement is more sensible.

Deputy President, as announced in the Policy Address, a pilot scheme would be introduced in Sham Shui Po and Yuen Long to provide the District Management Committees chaired by District Officers with the decision-making power to tackle the management and environmental hygiene problems of some public areas, with advice given by DCs on the work priorities, in order to progressively take forward the concept of "addressing district issues at the local level and capitalizing on local opportunities". As such, we envisage that the role of DCs in district administration will become more important in the future. I think the effective operation of DCs is definitely critical for the promotion and implementation of this idea or concept. Hence, in the long run, in this regard, I suggest that consideration should be given by the Constitutional and Mainland

Affairs Bureau to conduct an overall review on the number of seats in all 18 DCs over the territory, as well as the delineation of their boundaries to prevent the situation of individual DCs being too large or too small, such that their scale would be more or less the same to ensure smooth operation.

With these remarks, Deputy President, I support the passage of the Amendment Order. Thank you, Deputy President.

MR CHRISTOPHER CHUNG (in Cantonese): Deputy President, first of all, I declare that I am a member of the Eastern District Council (DC) as well as the former Chairman of the Eastern DC.

I support the subsidiary legislation proposed by the Constitutional and Mainland Affairs Bureau today as well as the decision to transfer the area of the existing Tin Hau and Victoria Park District Council constituency areas (DCCAs) from the Eastern District to the Wan Chai District (two-DCCA proposal).

Currently, the Eastern DC is the largest DC in the territory with 37 elected members and six appointed members. Over the years, our DC has been operating very effectively. Although restrictions apply in respect of the number as well as the length of speeches to be made by individual members, there is no empty talk in our DC, and we can effectively complete various tasks to ensure the smooth development of the district. On the contrary, the Wan Chai DC, which is in close proximity to the Eastern DC, is one of the smallest DCs in Hong Kong, with 11 elected members and two appointed members. I consider that the two-DCCA proposal is ideal for the purpose of evening out the workload, size and development of these two districts, while keeping the potential impact to the minimum.

Deputy President, I always attach particular importance to the integrity of the community. Regarding the view that the entire area of North Point should be transferred to the Wan Chai District, I consider that it will actually destroy the integrity of North Point, seriously undermine the sense of belonging of local residents and create much inconvenience for their daily living because many residents who have been living in North Point for decades always consider themselves "residents of the Eastern District", rather than "residents of Wan Chai". Hence, during many previous rounds of consultation, the majority of

local residents tended to support the two-DCCA proposal involving the transfer of the two relevant areas to the Wan Chai DC.

As a matter of fact, the transfer of the area of Tin Hau and Victoria Park to the Wan Chai District is conducive to enhancing the integrity of the local communities in Causeway Bay and Tai Hang. For instance, the area we commonly refer to as Causeway Bay actually straddles across the Eastern District and the Wan Chai District, with the busy central business district of Causeway Bay belonging to the Wan Chai District, while areas in the neighbourhood of Tin Hau such as the Causeway Bay Kaifong Welfare Association, Causeway Bay Post Office, or even the former Causeway Bay Police Station and the existing Causeway Bay Fire Station all belong to the Eastern District. This has undoubtedly created confusion for ordinary members of the public.

The proposed transfer has also aroused much speculation as to whether any political conspiracy is involved. I must point out that such transfer is actually beneficial to district development and administrative efficiency with the least impact created for the livelihood of local residents. Actually, those are the factors we should be mindful of. Any speculation about the so-called election of political parties, that is, the transfer of particular DCCAs to facilitate or serve the interests of certain political parties in elections is just some groundless counter argument made for the sake of opposition. If a political party is aspired to serving the community, such aspiration will not be deterred simply because a particular DCCA has been transferred to another DC, not to mention that under the proposed transfer, the two areas would be transferred to the Wan Chai District in their entirety, without the integrity of these two DCCAs being undermined at all. Hence, I consider that this is an appropriate arrangement.

Regarding this legislative amendment, we and many Members have expressed concern about whether the transfer of DCCAs would impact on the current provision of emergency services, healthcare services, open space, as well as sports and recreational facilities in the Wan Chai District and the Eastern District. Moreover, there are also concerns about the existing school net arrangement. Fortunately, the Government has listened to our views in advance and explained that the proposed transfer will not have any impact in this regard, including fire/ambulance services, services provided by the Hospital Authority as well as the provision of open space. But I think that is not the complete picture. After the transfer of the Victoria Park DCCA to the Wan Chai District, there will be a serious shortfall of six soccer pitches, one large swimming pool as well as

other sports and recreational facilities (such as swimming pools) for the Eastern District. I hope the Leisure and Cultural Services Department can identify suitable sites for providing those facilities that are in shortfall in the district.

Separately, the proposed transfer has also resulted in changes in the school net arrangement. With effect from 1 January 2016, the three schools concerned, namely, the Concordia Lutheran School (North Point), the TWGH Lee Ching Dea Memorial College and the North Point Government Primary School (Cloud View Road), will become located in the Wan Chai District instead of the Eastern District. In this connection, some school representatives have presented views to this Council on several occasions. I believe that having noted their concerns, the Education Bureau should be obliged to make suitable transitional arrangements, so that the two secondary schools concerned would be allowed to net some school places to the Eastern District for Central Allocation to primary students studying in schools in the district until the 2020-2021 school year.

As for students studying in the North Point Government Primary School (Cloud View Road) who will participate in the Secondary School Places Allocation System up to 2020, they will be provided with the option to choose from participating secondary schools in either the Eastern District or Wan Chai under central allocation. I consider that the two humanized and rational arrangements mentioned above can safeguard the interests of primary and secondary students in the district, as well as reduce the impact of the proposed transfer on them.

Deputy President, given that the proposed transfer has created relatively minor impact on the two DCCAs and was supported by the majority of the public, while the Government has also handled the issue about the school net arrangement prudently, the DAB and I will support the proposed resolution.

I so submit.

MS CYD HO (in Cantonese): Deputy President, I speak to oppose the proposed transfer because as far as we are concerned, the reasons cited by the Government are absolutely groundless, not to mention that its so-called proposed solution has even failed to address the problems indicated by itself. According to the Government, it is necessary to transfer the area of the existing Tin Hau and Victoria Park District Council constituency areas (DCCAs) from the Eastern

District to the Wan Chai District (two-DCCA proposal) because there is a huge difference between the membership of these two District Councils (DCs). Hence, the number of elected seats of the Eastern DC will be reduced by two from 37 to 35, while the number of elected seats of the relatively small Wan Chai DC will be increased to 13 correspondingly. But even with the proposed revision, the Wan Chai DC will only have 13 seats. Should the Government genuinely want to resolve the inequality regarding the membership of the two DCs, given that both districts received the same provision of \$100 million, and if the authorities see any problem when calculating the per capita provision, the real solution should be having an equal number of elected seats for both DCs, that is, dividing the sum of 11 and 37 by two, such that both DCs would have 24 elected seats equally, with North Point, or the area around the former North Point Estate, as the boundary. That is the solution to the problem mentioned by the Government. The transfer of only two DCCAs cannot resolve the problem at all as there is still a difference of more than two-fold between 35 seats and 13 seats. While members of the Wan Chai DC still have relatively sufficient time for making speeches and discussion, members of the Eastern DC would still have only two minutes of speaking time each and their meetings would be very long.

Deputy President, there are four DCs on the Hong Kong Island. Of the 1.28 million population on the Hong Kong Island, half of them, or about 650 000, live in the Eastern District. Separately, the Wan Chai District only has a population of 140 000, and its DC only has 11 elected seats. For the Central and Western District and the Southern District, their population sizes are 220 000 and 240 000 respectively. If some hold that all DCs should be more or less comparable, and it is not proper for each DC to receive the same provision of \$100 million such that districts with a smaller population can benefit more, the Central and Western, Wan Chai and Southern DCs should be merged together to form one DC, while the Eastern DC should remain as a separate DC, with each DC receiving a provision of \$200 million. In that case, the Administration's two-DCCA proposal would make more sense. However, instead of resolving the problem raised by the Government, the present proposal only serves to create other problems.

Take Tin Hau MTR station as an example. According to the proposed delineation, the area of Tin Hau MTR station exit close to Victoria Park will become part of the Wan Chai District, while the area on the other side of King's Road will be the North Point District, and Cloud View Road further up along the stairs will again be part of the Wan Chai District. In case of flooding caused by

rainwater flowing downhill, the matter would have to be handled by the two districts through co-ordination, which is extremely troublesome. Regarding cultural and recreational facilities — as just mentioned by some Members — Victoria Park was originally part of the Eastern District with the provision of the Victoria Park Swimming Pool, six soccer pitches, tennis courts, and so on. But actually Victoria Park is located at the border of the Eastern District and residents in Chai Wan, Siu Sai Wan and Shau Kei Wan must travel a long distance if they want to go to the Victoria Park. But with the Administration's proposal to transfer Victoria Park to the Wan Chai District, there will be a significant shortfall in cultural and recreational activities in the Eastern District. What was the response given by the officials? We were told that given the close proximity of the Victoria Park to the Eastern District, residents in the district could continue to use these facilities conveniently. Isn't that self-contradictory? No wonder some commentators have queried whether this is just an arrangement involving political interests, so as to allow certain DC members to become Chairman of the Wan Chai DC at the next election and obviate the need for any contest for the same position in the Eastern DC. Some Honourable colleagues may say that this is merely speculation, but objectively, this is a likely scenario. We can even name that particular person. If Ms Jennifer CHOW is re-elected as a DC member in 2015, there is a 90% chance that she will be elected as Chairman of the Wan Chai DC. But should she stay in the Eastern District, she might not be able to do so because there is only one Chairman in each DC, and yet there are many senior members or members with similar qualifications in the Eastern DC, resulting in internal contest within the same political party. Hence, the matter can be conveniently resolved by transferring the two DCCAs to the Wan Chai District. The Government is really ridiculous if that turns out to be the objective outcome or the true reason for the proposed delineation because the principle of neutrality in the delineation of DCCA boundaries has been undermined, in order to serve an utterly narrow political motive.

The boundary of DCCAs should not be delineated according to the population size. Under the current requirement, the population size of DCCAs should be about 17 000, with a margin of deviation within 25%. For some small DCCAs, there can be as much as 21% deviation from the required population size, while others generally have a population size around 16 000 or 17 000, and some even as many as 20 000. Nonetheless, we consider that instead of imposing such a rigid ceiling on population size, the Administration should consider various geographical factors involved in boundary delineation. Hence, the Southern District including Aberdeen, Pok Fu Lam, Stanley and Shek O

should be a separate DC because this district is very distinct geographically, and its community is poles apart from that in the Central and Western District. Hence, instead of considering the difference in population sizes of the two districts concerned, the two DCs should be delineated on the basis of their physical features, district culture and socio-economic conditions. Notwithstanding, it is appropriate to draw the boundary along the Victoria Park for the old Wan Chai and Eastern Districts because a large stretch of land there has been zoned for non-residential use. The Administration's two-DCCA proposal not only affects the original DCCAs, but also disrupts the established community facilities, including the school net arrangement as mentioned by some Honourable colleagues just now. I will talk about the school net arrangement at length later. Besides, the problem created by the same allocation of \$100 million to all DCs to implement community projects still remains unresolved, because this arrangement effectively means that the Eastern District is under-provided whereas the Wan Chai District is over-provided. In fact, this problem is created by the Government itself. Why is the same planning standard adopted for DCs with such a great difference in population and membership sizes? Aside from the Eastern DC with more than 30 seats, the Sha Tin and Yuen Long DCs also have a large number of members. What would the Government do? Does it want to transfer two DCCAs from these DCs to other DCs as well? This should not be the Government's solution. If it is considered unfair to provide the same provision of \$100 million to all DCs, the Government should consider making allocation in a fair manner on the basis of their respective population size for the provision of community activities and facilities to local residents. However, I would not agree with the two-DCCA proposal just because the Administration has rigidly provided the same provision of \$100 million to all DCs.

Separately, Deputy President, turning back to the consultation process. Several schools have told us that the Administration had not consulted them particularly on the proposal. One of the three schools affected is North Point Government Primary School. Under the proposal, it will become North Point Government Primary School in the Wan Chai District. Isn't that ridiculous? That is a completely nonsensical arrangement, yet as a government school, it dares not oppose the Government openly. As for the other two subvented schools, namely, the TWGH Lee Ching Dea Memorial College and the Concordia Lutheran School (North Point), they are extremely concerned that given their sudden transfer from the Eastern school net to the Wan Chai school net, parents in the Wan Chai District may have little knowledge about them and hence,

resulting in insufficient intake of students. Under the Government's current measures of class reduction and school closure, should student intake of these two schools be adversely affected, or even to the extent of facing closure as a result of their transfer from the Eastern school net to the Wan Chai school net, the Government should be held responsible because the schools are innocent.

We also consider it unacceptable that the schools concerned had not been consulted specifically during the consultation process. Instead, local residents were only consulted through local DC members and at several consultation meetings. With several hundred students as well as their parents or families, the schools are a major stakeholder in the Eastern District and should be duly consulted. Under the interim measure proposed presently, the school concerned can stay in the Eastern school net with the affected students being given the choice of schools in both districts up to a specific school year after all the existing primary students have gone to secondary schools when it is formally transferred to the Wan Chai school net. That is an acceptable interim measure.

But we have also been told by the principal that the school is mostly served by franchised buses plying in the Eastern District, and only a few bus routes go from Wan Chai to Cloud View Road. Hence, if the school is arbitrarily transferred to the Wan Chai District without the provision of supporting measures, can the franchised bus companies be requested to increase service between Wan Chai and Cloud View Road when it starts to admit students from the Wan Chai District five or six years later? I do not know how this request is going to be handled by the Government at that time. At present, the school is mainly served by franchised bus routes plying in the Eastern District. As far as we were given to understand at the meetings, the school is only served by two bus routes from Wan Chai. In other words, the school is not conveniently accessed by students living in Wan Chai and hence, it may not become be a favourite choice for these students in terms of school selection.

Deputy President, the proposal also poses a problem on the analysis of data in respect of the profile of Hong Kong population, as such statistics have all along been collated on the basis of DC districts. According to the statistics of DCs published in the annual or quarterly reports of the Census and Statistics Department (C&SD), the Wan Chai DC has all along been the wealthiest DC in the territory as calculated from the income of its population in the constituency areas including Tin Hau, Victoria Park and of course Borrett Road on the Peak. That is why the district has become the wealthiest in the territory. After the

transfer of these two relatively "middle-class" DCCAs from the Eastern DC to the Wan Chai DC, it will be impossible for scholars or postgraduate students to compare their population profile, wealth, living condition, property ownership, education level, and so on, for academic research purpose because with the passage of this resolution, these two DCCAs will belong to the Wan Chai DC with effect from the next DC election.

Of course, we have followed up on this matter in the course of our scrutiny. Yet the Administration only stated that in future, any person engaging in academic research can make a request to the C&SD for compiling data separately for the two DCCAs with a payment of fees. In other words, if tailor-made statistics are required from the C&SD, such as in respect of presentation, analysis, breakdown, and so on, a fee would be incurred. In other words, many problems have been created inadvertently as a result of the two-DCCA proposal which is ultimately a ridiculous political decision. Of course, our greatest worry is that the principle of political neutrality in the delineation of DCCA boundaries would hence be undermined. Ultimately, an objective outcome from such revision is that a DC member of the pro-establishment camp will have no problem in getting elected as the next Chairman of the Wan Chai DC. This is something which should not have happened under the systems of Hong Kong.

Deputy President, lastly, I want to talk about the DC election system. Indeed, the population in old districts can change suddenly and substantially as a result of various factors such as urban renewal. If the *status quo* is maintained such that a DC member is returned only by a population of 10 000-odd in small constituencies, given the inherent structure of this system, this DC member is just answerable to the 10 000-odd residents. But as a result of urban renewal, there will be substantial changes in the social classes of his constituents to whom he should be answerable. Hence, we have all along maintained that the proportional representation system should be adopted for returning DC members. Take the Eastern DC as an example. The proportional representation system can still be adopted even though the number of its elected seats would be revised to 35 with the passage of the Amendment Order. It is even better with such a sizable DC having several tens of seats because this can provide a better picture of the support rate of each political party or independent candidate, as well as the power distribution within the DC. This system is more effective than the current narrow-based "single-seat, single-vote" system, and DC members' views on the overall planning of the district will not be prejudiced because they are merely answerable to a limited size of electors. This can avoid the situation where DC

members always resist the provision of essential facilities such as refuse collection stations in their own constituencies, while requesting that such facilities be provided in nearby districts.

Due to this restrictive system, DC members cannot work from the perspective of the overall planning of the district, which is highly unsatisfactory. In particular, the increase of 19 new constituencies in future would involve substantial work in drawing up their boundaries. We hope that the Government will seriously consider whether the proportional representation system should be adopted for returning DC members.

Thank you, Deputy President.

MR SIN CHUNG-KAI (in Cantonese): Deputy President, we do not agree with this Amendment Order today, and we will vote against it. The reason is simple. The proposal to transfer two seats from the Eastern District Council (DC) to the Wan Chai DC is simply wishy-washy. Currently, the Wan Chai DC has a total of 13 seats, with 11 elected and two appointed seats. With the abolition of appointed seats in future, it will only be left with 11 seats. After the proposed transfer of two seats from the Eastern DC, the Wan Chai DC will once again have 13 seats. I do not know if the Administration has made this proposal because the number "13", which sounds like "sure win" in Cantonese, is considered by the Chinese as auspicious. But as far as I am concerned, this is a personal decision rather an institutional arrangement.

With 30-odd members in the Eastern DC, it would take a long time for each member to take turn to speak. Take the Legislative Council as an example. Our meetings would sometimes last until late at night even if each Member is only allowed to speak for five minutes. On the other hand, we have to worry about the absence of a quorum in case several Members are absent. If the Administration really wants to resolve this problem with the Eastern DC, it should at least take out the North Point constituency and combine it with the Wan Chai District to form a new DC called "North Point-cum-Wan Chai DC". In that case, the Eastern DC will probably have 20-odd seats left, while the new DC will have around 20 or slightly more than 20 seats. The difference between the two DCs is not substantial. With a more balanced membership size, better arrangements can be made in terms of resource allocation and other areas.

Actually, the present revision is introduced quite deliberately, as if it is tailor-made for specific DC members, so that after the transfer of the two seats to the Wan Chai DC, certain persons will be elected as DC members, or as rumour goes, a particular person will become the next chairman of the DC. Politically, this is not a brilliant design. In fact, back then, Hong Kong used to have only 18 DCs. With the split of Kwai Tsing from Tsuen Wan, the number of DCs increased to 19. Subsequently, the Yau Tsim DC merged with the Mong Kok DC to become the Yau Tsim Mong DC. As we can see, the demarcation of DCs is always changing, with the presence of certain objective and reasonable factors. For instance, as the area of Yau Tsim Mong is actually very small, merging them together would lead to better results in the handling of regional matters. As a new town, Kwai Tsing District is different from the old district of Tsuen Wan which has a larger population. The split was introduced for a reason.

(THE PRESIDENT resumed the Chair)

Nonetheless, I cannot see any objectivity in the present arrangement. It is not enough to transfer just two seats from the Eastern DC, that is, the two constituencies of Lai Tak Tsuen and the area around Victoria Park on the east of Wan Chai. In fact, I support that more comprehensive reform should be introduced by the Administration by transferring five to six additional seats from the Eastern DC to the Wan Chai DC such that, say, the Wan Chai and North Point districts will have a total of 18 to 19 seats. I think this would be a better design and more conducive to the operation of the DCs.

Just now, Ms Cyd HO has spoken about the problems with the school net arrangement and the provision of other facilities. Hence, I will not repeat them because once these "surgeries" are performed, certain supporting measures must follow definitely. It seems that the present arrangement is a political decision made by the Government, and this political decision is a tailor-made decision, rather than an objective decision.

Just now, Ms Cyd HO has also spoken about the DC election system. Regarding this point, a review of the population distribution in each constituency of the Wan Chai District will show that the population of most constituencies is actually bordering the lower limit. Hence, some constituencies should be merged together taking into account objective factors. If calculated on the basis

of the average population of the constituencies, those 13 DC seats should have to be reduced to just 10 in future, or 11 to 12 at most, because the population of all constituencies is bordering the lower limit. The proposed arrangement is far from ideal in terms of addressing the difference in membership size of the two DCs.

I would also like to talk about another point just raised by Ms Cyd HO, that is, the DC election system. In order to implement the so-called system of representation government, the Government started to set up district consultative committees in 1979, and DC elections have been held for 30 years since 1982 and 1983. Therefore, it is high time for another review on the election method. As Ms Cyd HO also mentioned just now, DC members were returned by a "double-seat, double-vote" system initially. Subsequently, a "single-seat, single-vote" system was adopted. Hence, it is clear that changes have been made to the election system.

For now, what are the factors I think the Administration should consider? I think the Administration should consider the nurturing of political talents. Actually, there is a huge gap between working in the level of DCs and the level of the Legislative Council. The Government should consider introducing some ... Regarding the point raised by Ms Cyd HO that the proportional representation system should be adopted for DC elections, this suggestion has both advantages and disadvantages. According to internal studies conducted by the Democratic Party, DC seats should be divided into two categories. For example, two thirds of the seats can continue to be returned by the "single-seat, single-vote" system which is a relatively more accountable election method. The "single-seat, single-vote" system has the advantage of allowing local residents to clearly identify the DC member concerned in case assistance is required.

A DC member may become quite well-known in his service area after working for a few years, yet no ascension ladder is available. Members can consider this question from another angle. If one third of the members of a DC are to be returned by a proportional representation system, that is, assuming that a medium-sized DC has 24 seats, 16 seats would be returned by the "single-seat, single-vote" system, and one third of the seats, that is, eight seats, would be returned by the proportional representation system. What is the advantage of this arrangement? Comparatively speaking, the constituency of each seat under the "single-seat, single-vote" system will become larger when compared with the present situation, while the overall number of DC members may be unchanged.

In other words, while the number of seats in each DC is more or less the same, each constituency will be at least 50% bigger from the current area. Hence, DC members are not only required to be concerned about the problems of buildings in their neighbourhood area, that is, they must be concerned about the entire area, and even the district as a whole by adopting a wider perspective.

What is the advantage of returning one third of DC members by the proportional representation system? This arrangement can serve as a ladder for nurturing the regional perspective of DC members. For instance, if eight or nine members of the Eastern DC are to be returned by the proportional representation system, the candidates would need to gain recognition in the entire district, and DC members returned by the proportional representation system may also use this bridge to stand in Legislative Council elections in future. Using the proportional representation system as a ladder to nurture political talents can be a good option worthy of consideration by the Government.

I think another factor which should be taken into account is that in any DC, some members consider matters from the perspective of the entire district, such as issues of regional development, rather than merely be concerned about housing estates in his own constituency. At present, DCs must often rely on appointed members to take up tasks involving service provision. Before the DC appointment system is abolished — of course, we support its abolition — the DCs should have members with a regional perspective.

Nonetheless, going back to today's Amendment Order — just now, I merely want to take this opportunity and speak about other matters — only a minor change is involved, that is, two seats will be transferred from the Eastern DC to the Wan Chai DC. I understand that according to the Basic Law, matters on district administration can be decided by the SAR Government on its own, without having to go through the five-step mechanism. I hope that apart from handling the five-step mechanism, the Secretary can also take practical actions to train up talents, resolve problems in the district, and so on. I think having more DC members with a regional perspective can bring more good than harm for the Government. Very often, DC members are only concerned about housing estates in their own constituency, or even in a narrower sense, the several blocks of buildings concerned rather than the entire housing estate. Such a vision is too restrictive. But as some small constituencies may only include three or four blocks of buildings, a candidate will have enough votes to win the election even if he just focuses on two blocks.

Therefore, I think the Secretary can consider these issues in the context of this reform — this is actually not a reform but a change. Even though only a small change is involved, I cannot support it. I think the Secretary should stop conveying the message of rule by law to the public as the change is tailor-made for one or two persons, rather than a thorough reform. We oppose to the proposed resolution in order to convey our dissatisfaction against this proposal.

DR KENNETH CHAN (in Cantonese): Just now I listened to the speeches of two Honourable colleagues. They have not only commented or expressed their views on issues arising from this transfer of two relatively small constituencies from the Eastern District to the Wan Chai District, but also proffered opinions on district administration as a whole, or on the system of and electoral methods for District Councils (DCs). To be honest, if I were Secretary Raymond TAM, I would wonder: What does this have to do with me? District administration falls within the purview of the Home Affairs Bureau. This morning you did not raise any comments to Secretary TSANG Tak-sing, but now you are making such points. I am only responsible to deal with matters concerning these two constituencies because, as stated in the papers, there are views that the Government should study and see if there is a need to adjust the boundaries of the Eastern and Wan Chai Districts. The conclusion drawn so far is that, given the consent from the Eastern District, the DC members of the two constituencies in the Eastern District, as well as the Wan Chai District, these two constituencies are to be transferred to Wan Chai. It is as simple as that.

That is why in this Council, whether at Council meetings or Panel meetings, we often come up against a brick wall. It is often the case that when Members try to propose relatively systematic and forward-looking plans or thoughts to the Government, many ideas are somehow lost completely owing to the meticulous division of responsibilities within the Government. Of course, I believe that later on, Secretary Raymond TAM will politely indicate that he will relay my views to the relevant departments or the Secretary for Home Affairs to follow up. But actually it is not necessary to do so, because the Secretary for Home Affairs has already known my views. I have invariably asked him to do more work and consider more initiatives every time I have met him since I joined this Council in October 2012. In every discussion or debate about DCs, many Honourable colleagues, be they from the pan-democratic or pro-establishment camp, have raised these issues. Despite so, for reasons unknown, the Secretary is still slow to take action and not quite responsive after so many years in office.

He often says that these issues are very complicated and keeps stalling. He has done nothing but "minor operations".

President, I actually felt uneasy about this matter in the Subcommittee. Why do I say so? It is because I noted that in the papers submitted in the first round, the Government seemed to be saying that the issues had been properly dealt with and there was general support from the Districts — "general support" are the words used in the papers — but as soon as the proposal was gazetted, I already received responses from school sponsoring bodies, parent associations and alumni organizations in the District concerned, saying that they had never heard of this proposal and were wondering if it was to be implemented forthwith. They were concerned about what they should do upon being transferred from one school net to another in future. So they started writing to my office to make representations, and I had discussions with them. Not until then did I realize that they had so many worries, including the admission of students to the schools after being transferred to another school net in future, the implications for the schools, the change in their relations with that District, and so on. This is particularly relevant to two secondary schools, namely TWGHs Lee Ching Dea Memorial College and Concordia Lutheran School (North Point), in addition to North Point Government Primary School. There are opinions from the District concerned, but they are not reflected in the papers.

What is more interesting is that when one of the DC members involved in the proposed transfer of constituencies attended a meeting with us, he realized only then that there would be implications, and indicated that the Government should do something. We previously thought that there should be no problem at all, assuming that the DCs had finished discussions. So the Government had given us the false impression that it had, seemingly, made a judgment or decision on some issues together with certain DCs or DC members, and then said that the issues would be handled accordingly. When we went on to ask the Government for more papers to ascertain the number of people consulted, the views obtained, and so on, the Government replied that only a minority of people had raised objections. While the number of people raising objections appears to be small, the so-called minority views actually depend on how they are categorized, and in fact, the Government has hardly made any analysis. However, this matter undoubtedly involves several schools, the issue of school nets, the admission of students, the worries of alumni and parent associations, and so on, but then none of these is reflected in the papers. Therefore, we cannot trust the Government's judgment and analysis.

Moreover, the Government has further indicated that apart from the need to consider people's livelihood, this matter also involves people's sense of identity with respect to the Districts. But in the entire discussion process, I really could not find, nor could the Government provide, any analysis of the views and attitudes of the residents of the Eastern and Wan Chai Districts or the two affected constituencies. No such analysis is available. This exactly coincides with the feeling of some Honourable colleagues, that is, it seemed that among the DC members of the constituencies concerned, the Government had merely talked to those who shared or echoed its views, and after they said, "Agreed, okay, that is a good idea," the proposal was put through. Had the Government carried out a more serious opinion poll or questionnaire survey to bring such information to the residents of the affected constituencies, so that they could understand, discuss and analyse the matter? Or, was it the case that the Government deemed it unnecessary to take the trouble to do so, and preferred to keep things simple? Although the Government always says day after day that "nothing about people's livelihood is trivial", this problem has precisely pointed to the Government's failures in these two major aspects.

In various places around the world, there have been discussions on reforms of district administration and local councils, regardless of whether they are about the demarcation of constituencies, the delineation of district boundaries or the implications for district services, so there are a lot of experiences that we can learn from. However, Hong Kong has taken a lazy approach, which is a kind of political compromise in the form of expression of views between the two DCs or among certain DC members. The Government calls it an approach of following good advice in taking the proposed course of action. As a matter of fact, in the discussion process, I really heard opinions as to whether a "Wan Chai and North Point District" should be established. If the Government can seriously and rationally deal with the factors concerning population, the number of DC members and their workload, as well as the adjustments to other community services, and so on, given such opinions expressed and as long as there is ample room and time to conduct a more comprehensive and extensive consultation in a more serious way, there will be more room for the public and Members to consider. This aside, regarding the reforms of the electoral system mentioned by Members just now, it is also worthwhile to take them forward through these discussions.

Let me give an example of the delineation of district boundaries in other countries that I know of. The population of England is large whereas that of

Scotland is relatively small, yet the Parliament of the United Kingdom is formed under a "single seat, single vote" system. Though Scotland does not have a large population, the proportion of seats allocated to Scotland is comparatively higher. Still, the United Kingdom would not re-delineate or redraw the boundary between Scotland and England because of that. The United Kingdom would not do so. Rather, it would show great respect for their citizens' sense of identity towards local districts, and then consider what methods could be adopted. Even though the seats would not be allocated on a pro rata basis, the convention accepted by everyone through common practice would be respected. However, it seems that Hong Kong simply lacks creativity or the mentality or desire to learn from overseas experience in this regard. The Government is sort of doing a routine administrative task in transferring two constituencies from one District to another, or deducting two there and adding two here. The problem remains unresolved.

Besides, in 1999, the United Kingdom established a new council system as part of the reform of its district administration, whereby dual elections were introduced, with a "single seat, single vote" system combined with a proportional representation (PR) system at constituency or sub-constituency level. As Members said just now, can we take this opportunity to carry out such reform in DCs? If it is reckoned that the number of Wan Chai DC members is relatively small, can the system be reformed so as to provide additional PR seats for the entire constituency area of the Wan Chai DC? This is because, in fact, the Wan Chai DC is not simply just a DC for Wan Chai. Visitors to Wan Chai include people from Hong Kong Island, Kowloon and the New Territories, as well as those from all over the world. It is really put under enormous pressure with a heavy load, insofar as Hong Kong is concerned. Is it true that we can solve this problem by giving it two additional constituencies and two additional DC members? Is it true that this can give enough manpower to the DC and wisdom to its members to fight for resources from the Government, improve people's livelihood and enhance the status of the Wan Chai DC according to the members' understanding of, and their ideas and aspirations for, the entire Wan Chai District instead of small constituencies? Actually, all these are worthy of our discussion and study, but no such action has been taken this time around.

President, before the amendment deadline last week, that is 15 January, I personally phoned and discussed with the principals of the two secondary schools mentioned by me just now. I asked them what issues, in their view, should be specifically raised in relation to the implications of this demarcation exercise in

terms of the prospects for their schools, their difficulty in admitting students, and the future development of their schools. According to one of the secondary schools, the School Places Allocation Section of the Government only had a brief conversation with them over the phone, saying that it would not consider meeting them until a later time, the reason being that the Government had to wait for the Legislative Council to make a decision before it could do its work.

This is really laughable. The Government said it had to wait for us to make a decision before it could do its work, but people are worried that once the decision is made, the Government will not do anything. The Government regards what is said as what is done. Everyone knows that. The same goes for any study that the Government claims it will conduct. At first, it says it will study how to offer help, but in the end, no help will be offered. This is very scary. This is what Fanny LAW, an Executive Council Member, once said. What is said is regarded as what is done. A study conducted is regarded as the job done. This makes people feel very ill at ease.

The other secondary school also said that it agreed in principle. As stated in government papers, the schools have indicated in-principle agreement. But President, such "in-principle agreement" is so laughable. The Government official only said a whole bunch of things over the phone without giving any concrete undertaking. He seemingly spoke with total sincerity over the phone, and then asked whether the schools agreed in principle. Would the schools say they did not agree in principle? As the schools had to deal with the big Government, claiming that this was how things should be done, asking for discussions to see how things go, the schools naturally said that they agreed in principle. But regarding such "in-principle agreement", if you ask me, to be frank, I think they were not quite sure about it. In fact, these issues should have been properly resolved before the proposal was submitted to this Council for discussion. It should not be the case that follow-up actions are still required after our meeting, as it turns out that the issue has not yet been settled.

The Secretary also mentioned just now that the relevant meeting would only be held in March. So why is the Government in such a rush? Why does it not wait until March when the whole matter is completely and properly resolved before it submits its proposal to this Council? The Government has, however, sought to steamroller it through. The principals of the two schools are, after all, learned persons, who are refined in manner, forgiving and accommodating. They would not think of proposing to repeal the Order. They simply accepted

the Order, not knowing what was to be done. That being the case, we can only say for the record here that the whole matter has been handled very badly, and this is unfair to those gentle people of the two secondary schools. The Government has yet to give a convincing answer to the affected schools, parents, teachers and students, and even told them to wait and see.

So, regarding these details, I have to charge Secretary Raymond TAM with a task — because the division of responsibilities within the Government is so meticulous — and that is, he must get his colleagues at the Education Bureau to resolve the matter properly. If it cannot be resolved properly, the decision made today and the fine words uttered, saying how well things will turn out and how improvements will be made, are nothing but a pack of lies. On the one hand, the Government talks about how improvements can be made to the DCs, but on the other hand, we can see that this decision about the DCs, or this decision made by us, is just going to affect people's livelihood and needs, which are very important. It would be too late to regret, as a decision has already been made.

President, I demand that Secretary Raymond TAM should, following the completion of this amendment today, continue to inform the relevant Panel and this Council in writing how the Government is going to make transitional arrangements after the three schools are transferred to their new school net, and how much room and discretion it will allow them to continue operating according to their education philosophy after this amendment, as well as how these schools can connect with the District, their traditions, and so on, because the Government has said that if we do not make a decision today, it will not initiate any discussion.

As for such a decision made by us today, I must make it clear that I have grave reservations about it and, like the two pan-democratic Members who have spoken, I am opposed to this decision being made in such haste. But then, even if it is passed, the Government and the DCs concerned should still give proper explanations to the affected residents. If they fail to explain clearly, we will come back and pursue the matter with them at the relevant Panel meetings.

President, I so submit.

MR LEUNG KWOK-HUNG (in Cantonese): President, District Councils (DCs), formerly District Boards (DBs), have certainly experienced all sorts of

vicissitudes. Initially, DBs were used by the British Hong Kong Government as a material to make "the three-legged stool". Back then, seeing that there would be no representation of public opinion after the transfer of sovereignty, DBs were established. Later, all appointed seats were gradually replaced by elected seats. It was said that DBs could represent public opinion in Hong Kong, which was of course untrue. The Legislative Council back then, like this Council today, could not represent public opinion in Hong Kong either, and was even worse than this Council.

Even if DCs, or DBs, have gone through all sorts of vicissitudes, so what? They are like women treated as playthings by men. When time was almost up, that is, when the British Hong Kong Government was about to leave, it decided to change all DB seats into elected seats, giving them back to Hong Kong people. However, our great Motherland was not happy with that, because if all DB seats were to be elected by the people, it might fail to secure a majority of seats. Our Motherland found that unacceptable, and therefore decided to make a change. As a result, the appointment system was reinstated for some DB seats for balance, with the establishment of ex officio seats and appointed seats.

Subsequently, they realized that there remained a century-old legacy — the Urban Councils. In those days, the two Urban Councils had real power, and by virtue of the Urban Council Ordinance, the Urban Councils could of course accomplish more, as they were allocated funds from the public coffers to enable the Urban Services Department to operate and do real work. Yet, there was a problem with this platform, for both the Regional Council and Urban Council were unable to garner the public views desired by the SAR Government. The final outcome, which Mr IP Kwok-him knows very well, was the scrapping of the Urban Councils.

President, among all the things that earned you a place in the history books was the see-saw situation involving you in connection with the scrapping of the Urban Councils ...

PRESIDENT (in Cantonese): Mr LEUNG, you have strayed from the subject. This motion is merely about the demarcation of two DC administrative districts. Please do not digress.

MR LEUNG KWOK-HUNG (in Cantonese): No, it is because I usually do not begin with elaborating on the subject when I write. In my opinion, such transfers between the two DCs involved stem from the Government's or ruling party's indiscriminate demarcation of constituencies with a view to affecting the results of elections. If I put it this way, you will understand. This is my argumentation. This is why I do not agree to the Government's attempt to alter the boundaries and move the constituencies indiscriminately.

President, you need to understand. We only have a two-tier representative system. If changes are allowed for DCs, changes are likewise allowed for this Council. I am a Member of this Council, and so are you. Whether we will run in the next election is still unknown. But after such changes, we might lose our seats. My argumentation is ... As I happen to hear Members discussing about this issue while I stay in this Chamber, I also wish to express my views so as to fulfil my obligation to speak. My constituents returned me to this Council because they wanted me to speak on how the administrative structure and elections in Hong Kong should operate. I understand that as I did not begin with elaborating on the subject, you failed to understand.

Why do I say so? It is because history is indivisible, and although history is ever-changing, there is always a sequence of events. This is the most crucial point about education, which is not just about the study of outcomes, yes-or-no questions, multiple-choice questions, and so on. There is no way a council can be like this. That is why I would like to talk about the context.

Anyway, before the President reasonably stopped me from speaking just now, I was talking about the Urban Councils. The Urban Councils had also undergone many changes. What was the logic in that? The logic was very simple, that is, duplication of functions ...

PRESIDENT (in Cantonese): Mr LEUNG, please speak on the motion.

MR LEUNG KWOK-HUNG (in Cantonese): Okay, I will talk about the three secondary schools in a moment.

As far as I remember, the Urban Councils were scrapped in SAR times rather than in the colonial era. I mean, things are interrelated. The scrapping

of the Urban Councils was an achievement made by the then Chief Executive, elected under the framework of the Basic Law, in implementing the Basic Law and related electoral matters. Today, when we look at such an achievement, we can see that it certainly has a bearing on the present exercise to change the *status quo*, but is there any logic in doing so?

There is a little logic in what is being done this time. It is not totally illogical. What happened on the last occasion was worse. If the Government is trustworthy and thinks logically, people can grasp its reasoning. For example, on the last occasion, the Government abolished the municipal authorities (which were advisory bodies) on the ground that there was duplication of functions, which was a logical ground that could be considered.

But there was a problem, and what was that? President, I am coming to the point, that is, what the Government says is usually a lie. Of course, people tend to think that the reasons set forth by the Government today are compelling and justified, but the thing is, why should I trust the Government? On the last occasion, the Government claimed that after the reform, once the two Urban Councils were abolished, DCs would be able to take a more practical and customized approach in dealing with problems that the two Urban Councils had previously failed to resolve. Did the Government not say that? I remember it saying that. The Government also told us not to worry, because it would enhance the functions and powers of DCs, so that DC members would have greater functions and powers to do what they were supposed to do in place of the Urban Councils.

President, did all of the above happen? From my vague memory, I was elected in 2004 ...

PRESIDENT (in Cantonese): Mr LEUNG, you have strayed from the subject. Please focus your speech on the motion.

MR LEUNG KWOK-HUNG (in Cantonese): Understood. President, I will stop talking about these. In short, the SAR Government has no credibility.

The Government is now saying that it has to adjust the unreasonable constituency boundaries of the DCs concerned, so that they can better achieve

administrative effectiveness and serve their constituents. Fine, but based on the relevance mentioned by me just now, if this logic holds true, this Council will definitely be affected when changes are to be made to this Council in future, because some people may argue that — President, this concerns me, and I will surely talk about this later on — the New Territories East constituency to which I belong is too large, and suggest splitting it into New Territories North East and New Territories North West. This logic will spill over into the delineation of boundaries of other types of constituencies.

President, of course, as the person in charge of electioneering of the DAB, you also read books. Different governments have different misdeeds. Some governments have changed constituency boundaries into long strips that resemble the shape of a water insect. This phenomenon does exist at present. Secretary Raymond TAM, how would I know if you had such an intention? I have reason to say so, and that is because what you preach about constitutional reform is too unpalatable.

President, in all fairness, we can by no means oppose what is reasonable at present because of worries for the future — according to your teachings. But the point is, I think Secretary Raymond TAM ... I ran into him earlier on, does he still remember? I said, "Mr TAM, how are you?" I really ran into him, and I did not know that he came to this Council for this motion. I said, "How have you been recently?" He shook hands with me. I said, "Do not follow the example of Moses. Moses acted like this. He could not go to the blessed land of God. Why? Because he lacked confidence."

When we implement universal suffrage, we should have clear principles and objectives, as well as a fully open system. How the nominating committee should operate is open to debate, but President ...

(Mr IP Kwok-him raised his hand in indication)

MR IP KWOK-HIM (in Cantonese): I request the President to rule whether the speech of Mr LEUNG Kwok-hung is in violation of Rule 41(1) of the Rules of Procedure.

PRESIDENT (in Cantonese): Mr LEUNG, please do not digress anymore, or I will have to stop you from speaking further.

MR LEUNG KWOK-HUNG (in Cantonese): Fine, on the order of Mr IP Kwok-him, I now stop speaking. As he does not dare to listen to my speech, I am not speaking to him, and I would rather have afternoon tea now. How could he treat his colleague this way? He often digressed too, but would I take that action? Have I ever said anything like this?

PRESIDENT (in Cantonese): Mr LEUNG, please focus your speech on the motion.

MR LEUNG KWOK-HUNG (in Cantonese): Understood. I do not speak now.

PRESIDENT (in Cantonese): Please stop speaking.

MR LEUNG KWOK-HUNG (in Cantonese): How would he know what I was going to say next?

PRESIDENT (in Cantonese): Mr LEUNG, please stop speaking.

MR LEUNG KWOK-HUNG (in Cantonese): No need. I already said I would speak no more. You now have all the say. I can't be bothered to argue with you. We are on different levels.

Bye-bye.

PRESIDENT (in Cantonese): Does any other Member wish to speak?

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If not, I now call upon the Secretary for Constitutional and Mainland Affairs to reply.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, first of all, I would like to thank all Honourable Members who have spoken just now. Regardless of their stance on this motion, Members have expressed their respective views on matters arising from the proposed resolution, and some even put forward views on more fundamental issues of the system. We welcome all views from Members.

Although in my opening speech, I have already provided a detailed response to various concerns raised by members in the scrutiny process, and explained the specific measures to be taken by the Administration, there are a few points which I want to respond again in particular. First of all, I want to reiterate that the present proposal is made because of the following major reasons. First, after the review of the number of elected seats in the District Councils (DCs), we noted that the Wan Chai DC would only have 11 seats left. Hence, we have to consider whether a larger number of seats is required to facilitate its operation. Second, we will surely abolish all appointed DC seats with effect from the next term DCs, and this will give rise to other factors for consideration.

Basically, our considerations are as follows. First, the DCs concerned should operate smoothly and effectively, while ensuring that the proposal will have no impact, or only minimal impact on the provision of community and other social services to the public. That is our principle of consideration. The third critical principle of consideration is whether there is a consensus in the community, including the relevant DCs as well as the residents in the areas concerned. Of course, consultation had been conducted in the process, and we welcomed any views from members of the public. Hence, given the above considerations and principles, we hold that today's proposal is a better option that has the consensus of the community and can actually assist the operation of the DCs — the Wan Chai DC in particular. Although only a minor change is involved, we consider it worth pursuing and hence, the proposal is presented to the Council.

I must also stress that throughout the process — from the beginning, to the middle and to this day — no political consideration whatsoever has been involved. As I said, this course of action is contemplated on the basis of the

operation of the relevant DCs, the public's acceptability, the impact on community services, and so on.

Just now, several Members are particularly concerned about the impact on the schools or the school net arrangement. In a way, it shows that if the magnitude of our proposal (that is, the scale of revision to the number of DC seats) is not only two seats, but more than two seats, more schools might have been impacted. As a matter of fact, from the very beginning, my colleagues and I have already put the impact on the school net arrangement as one of our prime concerns. We have paid special attention to the concern of local residents on the school net arrangement. That is why I have, in my opening speech, fully explained the impact of this proposal on the school net arrangement, as well as the relevant arrangements to be made by the Administration (especially the Education Bureau) to facilitate the adjustment of the relevant schools and students to the changes in the school net arrangement.

Let me briefly reiterate a few points. First, at present, admission of students to Secondary One in public sector schools is administered through the Secondary School Places Allocation System (SSPA). School places without any restriction by virtue of school net can take up about 39 % of a school's Secondary One places. Second, any implication that the proposed Amendment Order may bring about to the school net of the schools concerned or the so-called SSPA will only take effect from the 2016-2017 school year. Third, to facilitate the affected schools and students to adjust to the change in school net, the Education Bureau is prepared to follow the established practice to allow these two schools — which have already been transferred to the Wan Chai District when the Amendment Order takes effect — to net some school places to the Eastern District for the central allocation to primary students studying in schools in the district until the 2014 Primary One cohort is admitted to Secondary One in the 2020-2021 school year. The Education Bureau had communicated the two secondary schools concerned on the relevant arrangements, and as mentioned by Dr Kenneth CHAN just now, they have indicated in-principle agreement to these arrangements. The Education Bureau will also consult stakeholders and schools on the number of places concerned.

Separately, regarding the views expressed by the two secondary schools on other facilitating arrangements, the Education Bureau will follow up and render necessary assistance. In these two districts, one public primary school will be

affected by the two-District Council Constituency Area proposal (two-DCCA proposal), and the school has not raised any objection.

As I have mentioned in the opening speech, first, at present, admission of students to Primary One in public sector schools is administered through the Primary One Admission System. School places without any restriction by virtue of school net can take up about 55% of a school's Primary One places. Second, any implication that the proposed Amendment Order may bring about to the school net of the school concerned or the so-called school places allocation system will only take effect from the 2016-2017 school year. Third, to avoid disruption to students already in the primary school concerned, students studying in the school who will participate in SSPA from 2016 to 2020 will be provided with the option to choose from participating secondary schools in either the Eastern District or Wan Chai District under the SSPA Central Allocation of Restricted School Choices.

The provision of public services has been mentioned by some Members just now. I reiterate that as mentioned in the paper we submitted to the Election Committee, the provision of services to the public will not be affected by the two-DCCA proposal. Regarding the provision of cultural and recreational facilities, some Members asked whether cultural and recreational facilities in the Eastern District might be impacted after the transfer of Victoria Park DCCA to the Wan Chai District. In fact, cultural and recreational facilities are open to members of the public over the territory, regardless of whether they are physically located in the Eastern or Wan Chai Districts. There will be no practical change to the usage of such facilities by the public. Second, I would like to point out that the Government will of course provide suitable cultural and recreational facilities for the use of local residents, taking into account the actual circumstances. In planning the leisure facilities to be provided for individual districts, the Leisure and Cultural Services Department (LCSD) takes into account a host of factors, including the Hong Kong Planning Standards and Guidelines, the planned population of the districts, the utilization, geographical locations and distribution of the existing facilities, the resources available and the view of DCs concerned.

Upon the implementation of the two-DCCA proposal, we envisage that the shortfall in seven-a-side soccer pitches for the Eastern District will become more serious with the transfer of the six seven-a-side soccer pitches in the Victoria Park from the Eastern to Wan Chai Districts. However, there is no shortfall in

swimming pools in the Eastern District before or after the transfer. Given the close proximity of the two districts which are well-served by public transport services, residents in the Eastern District can continue to use these facilities conveniently. The LCSD will continue to explore with the Eastern DC the possibility of providing more leisure facilities that are in shortfall in the district.

Some Members also mentioned the question of funding allocation. I would like clarify that the allocation of \$100 million is of course made on the basis of individual districts. Nonetheless, when allocating resources for the 18 DCs, particularly in respect of the recurrent funding for implementing community involvement projects, district minor works projects, and so on, many factors will be considered by the Administration such as population size and others. According to the information I have in hand, for example, in terms of funding allocation for implementing community involvement projects in 2012-2013, the revised estimate for the Eastern DC is about \$20 million due to its larger membership size and population, and that for the Central and Western DC is about \$14 million given its relatively small membership size and population, whereas the estimate for the Wan Chai DC is about \$10 million as its membership size and population is even smaller. Hence, to a certain extent, the provision of such funding is related to the size, population and number of seats of the DC concerned.

President, lastly, some Members have made certain more fundamental suggestions, including the number of seats in the 18 DCs, the area and population of individual DCs, as well as the question of whether the election method of "single-seat, single-vote" system should be changed to the proportional representation system. President, these more fundamental questions of review are of course outside the policy scope of the present Amendment Order, yet Members have taken the opportunity to express their views. We have heard those views, and will consider them carefully one by one in the context of a major review on the entire operation of the DCs. Thank you, President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by the Secretary for Constitutional and Mainland Affairs be passed. Will those in favour please raise their hands?

(Members raised their hands)

PRESIDENT (in Cantonese): Those against please raise their hands.

(Members raised their hands)

Mr SIN Chung-kai rose to claim a division.

PRESIDENT (in Cantonese): Mr SIN Chung-kai has claimed a division. The division bell will ring for five minutes.

PRESIDENT (in Cantonese): Will Members please proceed to vote.

PRESIDENT (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Frederick FUNG, Mr WONG Kwok-hing, Mr Jeffrey LAM, Mr WONG Ting-kwong, Ms Starry LEE, Dr LAM Tai-fai, Mr CHAN Hak-kan, Mr CHAN Kin-por, Dr LEUNG Ka-lau, Mr WONG Kwok-kin, Mr IP Kwok-him, Mrs Regina IP, Mr Michael TIEN, Mr James TIEN, Mr NG Leung-sing, Mr Steven HO, Mr Frankie YICK, Mr YIU Si-wing, Mr MA Fung-kwok, Mr CHAN Han-pan, Miss CHAN Yuen-han, Mr LEUNG Che-cheung, Miss Alice MAK, Mr KWOK Wai-keung, Mr Christopher CHEUNG, Dr Elizabeth QUAT, Mr Martin LIAO, Mr POON Siu-ping, Mr TANG Ka-piu, Dr CHIANG Lai-wan, Mr CHUNG Kwok-pan, Mr Christopher CHUNG and Mr Tony TSE voted for the motion.

Mr Albert HO, Mr LEE Cheuk-yan, Mr James TO, Mr Ronny TONG, Ms Cyd HO, Mr CHEUNG Kwok-che, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr Albert CHAN, Mr WONG Yuk-man, Ms Claudia MO, Mr WU Chi-wai, Mr Gary FAN, Mr Charles Peter MOK, Mr CHAN Chi-chuen, Dr Kenneth CHAN, Mr Kenneth LEUNG, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr SIN Chung-kai, Dr Helena WONG and Mr IP Kin-yuen voted against the motion.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that there were 60 Members present, 37 were in favour of the motion and 22 against it. Since the question was agreed by a majority of the Members present, he therefore declared that the motion was passed.

PRESIDENT (in Cantonese): Proposed resolution under the Interpretation and General Clauses Ordinance to amend the Waste Disposal (Designated Waste Disposal Facility) (Amendment) Regulation 2013.

(Some Members were talking loudly)

PRESIDENT (in Cantonese): Will Members please keep quiet.

PRESIDENT (in Cantonese): Members who wish to speak on the motion will please press the "Request to speak" button.

I now call upon the Secretary for the Environment to speak and move the motion.

PROPOSED RESOLUTION UNDER SECTION 34(2) OF THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, I move the motion printed on the Agenda to amend the Waste Disposal (Designated Waste Disposal Facility) (Amendment) Regulation 2013 (DWDF Amendment Regulation).

The DWDF Amendment Regulation was published in the Gazette on 29 November 2013. Together with another amendment regulation and other complementary measures to be implemented by administrative means, they seek to implement a package of initiatives collectively known as the Waste Diversion Plan for the South East New Territories (SENT) Landfill, so as to improve the

environmental performance of the existing waste collection system in different aspects, including:

- (1) Refuse collection vehicles (RCVs) must comply with certain equipment standards: We propose to introduce legislation to require that RCVs must be equipped with a metal tailgate cover and a waste water sump tank of suitable construction, so as to avoid such nuisance as leachate dripping and waste spattering. As a complementary measure to this legislative initiative, we have obtained funding approval of the Finance Committee of the Legislative Council to provide one-off subsidy to owners of private RCVs that do not meet the proposed standards, so that they may undertake the necessary retrofitting work. The relevant subsidy scheme started to receive application on 10 January 2014. Our target is to complete the retrofitting of all RCVs within the first quarter of 2015.
- (2) The SENT Landfill will be designated to receive construction waste only: In recent years, we have strived to improve the operation of the three landfills so as to minimize the odour concern. We have achieved some improvements. But as Tseung Kwan O develops, newly erected residential buildings have become increasingly close to the SENT Landfill with the closest local community situating only about 1 km away. At present, about 2 000 tonnes of municipal solid waste (MSW) is disposed of at the SENT Landfill every day. Such MSW includes food waste which contains organic substances and is the source of the odour problem. In order to address this problem at source, we propose to amend the legislation to change the use of the SENT Landfill to a facility that will accept construction waste only.
- (3) Refuse transfer stations (RTSs) will receive more MSW: The SENT Landfill receives about 2 000 tonnes of MSW every day. We need to ensure that the diverted MSW can be handled properly within the existing waste collection system and the potential impact on the traffic and environmental hygiene arising from the diversion can be minimized. To this end, the Administration has been planning to re-route some of the collection services operated by the Food and Environmental Hygiene Department, so as to make room in RTSs that

are closer to the urban areas to absorb waste collected by private collectors, and coupled with suitable fee adjustment, to alleviate the possible impact on the industry caused by the change of the collection routes after the diversion of MSW.

Furthermore, I have to thank the Subcommittee formed under the chairmanship of Mr WU Chi-wai for completing the scrutiny in a timely and effective manner within four meetings and for offering valuable views. I am pleased to note that the Subcommittee has, upon scrutiny, supports the two amendment regulations for the Waste Diversion Plan. Today I will propose certain amendments, mainly to improve the Chinese text and clarify the liability of the employer of an RCV driver in respect of the equipment standard requirements. The relevant amendments have been presented to the Subcommittee and have been supported by members.

With these remarks, I move the motion standing in my name as printed on the Agenda to amend the DWDF Amendment Regulation. I will provide further response to Members' speeches as regards the amendments at my concluding remarks.

Thank you, President.

The Secretary for the Environment moved the following motion:

"RESOLVED that the Waste Disposal (Designated Waste Disposal Facility) (Amendment) Regulation 2013, published in the Gazette as Legal Notice No. 188 of 2013 and laid on the table of the Legislative Council on 4 December 2013, be amended as set out in the Schedule.

Schedule

Amendments to Waste Disposal (Designated Waste Disposal Facility) (Amendment) Regulation 2013

1. **Section 3 amended (section 3A amended (facilities that accept construction waste))**

- (1) Section 3, Chinese text —
Repeal
""第3""
Substitute
""第3或"".
- (2) Section 3, Chinese text —
Repeal
""第1(b)、3""
Substitute
""第1(b)、3或"".
2. **Section 4 amended (section 3B added)**
Section 4, new section 3B —
Repeal subsection (4)
Substitute
"(4) If subsection (2) is contravened, the following person commits an offence and is liable to a fine at level 6 —
(a) (if the driver of the vehicle drives the vehicle into the specified facility on the instructions of the driver's employer) the employer; or
(b) (in any other case) the driver of the vehicle.
(5) It is a defence for a person charged under subsection (4) to prove that the person took all reasonable precautions and exercised all due diligence to avoid the commission of the offence."
3. **Section 5 amended (section 4 amended (powers of Director))**
(1) Section 5(4), Chinese text, before ""第(2)(a)至(d)款"" —
Add
"所有".
(2) Section 5(5), Chinese text, before ""第(2)(c)或(d)款"" —
Add
"所有".

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for the Environment be passed.

MR WU CHI-WAI (in Cantonese): President, I make the following report to the Legislative Council in my capacity as Chairman of the Subcommittee on Waste Disposal (Designated Waste Disposal Facility) (Amendment) Regulation 2013 (DWDF Amendment Regulation) and Waste Disposal (Refuse Transfer Station) (Amendment) Regulation 2013 (RTS Amendment Regulation) (collectively as Amendment Regulations). The Subcommittee has held a total of four meetings to scrutinize the Amendment Regulations and receive views from deputations.

In the course of deliberation, the Subcommittee discussed the impact of the Amendment Regulations on the practical operation of the waste collection trade, the detailed technical specifications of the specified devices of refuse collection vehicles (RCV), as well as the current enforcement actions against the nuisance arising from the operation of RCVs, such as dripping of leachate. To alleviate the odour arising from municipal solid waste (MSW) in the South East New Territories (SENT) Landfill and avoid the nuisance arising from the operation of RCVs, the Subcommittee generally supports the enactment of the Amendment Regulations.

Nevertheless, the Subcommittee is also concerned about the arrangements that private waste collectors have to make in future, that is, to transfer the waste diverted from the free SENT Landfill to other fee-charging landfills and pay for the service of refuse transfer stations (RTSs). The Subcommittee notes that the trade finds it hard to pass the increased cost onto the affected waste collection service users, such as building management committees or owners' corporations, rendering the business of small operators unsustainable.

Some members suggested that the Government should consider waiving the RTS fees. However, the Government considered this suggestion ran counter to the "polluter pays" principle and that it would have negative impact on the proposed implementation of MSW charging. At the same time, RTSs located near the commercial and residential areas might attract more private waste collectors and RCVs would queue up outside the facilities, causing traffic and environment problems in those areas. Hence the Administration did not agree to this suggestion. Nevertheless, the Subcommittee has urged the Administration to work out the transitional arrangements for the implementation of waste

diversion, with a view to allowing adequate time for the trade to discuss with their service users about the impact on the operating costs and negotiate the contract terms for renewal of waste collection service contracts. The Subcommittee has also called on the Administration to provide assistance to waste collection operators to enable them to adapt to the changes brought about by the implementation of the Amendment Regulations.

Regarding members' concerns, the Administration has also acknowledged that private waste collectors need a reasonable lead time upon the designation of the SENT Landfill to accept construction waste only and the implementation of the Waste Diversion Plan, to make arrangements with their clients, such as adjustments to their collection schedules and collection route, as well as variation to their existing refuse collection contracts. The Administration has undertaken that it would allow sufficient time for the trade to make the necessary preparation. The Administration has also undertaken to continue to liaise closely with the trade in drawing up the details of the waste diversion arrangements, so as to ensure a smooth implementation of the Waste Diversion Plan. In addition, the Government will publicize the need for this waste diversion to facilitate trade operators to liaise with their clients in adjusting the necessary waste collection fees to reflect the latest development.

Moreover, the Subcommittee is also concerned that under section 3B(2) of the DWDF Amendment Regulation, it is illegal for anyone to drive a RCV into a landfill or an RTS where the vehicle does not conform with the new equipment requirements. Also, if an RCV driver employed by an RCV owner who has not equipped the RCV with the specified devices drives such a RCV into a landfill or RTS, the driver will commit an offence and that is unfair to the driver. Hence, the Subcommittee has proposed amending the Regulation to provide that if the RCV driver is acting on the instructions of his employer, then the employer rather than the RCV driver commits an offence. The authorities have agreed to make such an amendment. Furthermore, to better cater for unintended non-compliance, such as unexpected failure of the specified devices, the RCV driver or his employer may have a "due diligence" defence.

The Subcommittee finds the amendments proposed by the Administration acceptable and hence does not propose any amendment to the Amendment Regulations.

President, the following are my personal views on the Amendment Regulations.

Of course, this is only the prologue of the waste management war. I know that the Secretary will face even greater challenges when he handles the landfill problem in the near future. However, from the discussion on the Amendment Regulations, we can see that the provision of each waste management facility and implementation of each related policy has to undergo a long process. Let us look at the following scenario: even if the Amendment Regulations are passed and the people living in the vicinity of the Tseung Kwan O Landfill agrees that construction waste will have less impact, there is also the possibility that because of poor timing, the people will not agree to the extension of the South-east New Territories (Tseung Kwan O) Landfill. This reflects the fact that over the past 10-odd years, we have maintained the mentality of "each sweeps the snow in front of his own door" in respect of waste management and this mentality has grown even stronger now. Although the Government has indicated in the last Policy Address that it has earmarked \$1 billion to set up a Recycling Fund in an attempt to move one step forward in respect of waste management and resource recycling, it is doubtful when this step can be moved.

As a matter of fact, at the public hearing, some organizations pointed out that the biggest problem with our waste management work was that each department acts on its own. While Secretary for the Environment Mr WONG Kam-sing is responsible for formulating the waste management approach, the legislation to be adopted by the Food and Environmental Hygiene Department (FEHD), which is responsible for collecting refuse at the front line, may contradict and conflict with what we have in mind. A case in point is section 11 of the Public Cleansing and Prevention of Nuisances Regulation (Cap. 132BK) under the Public Health and Municipal Services Ordinance (Cap. 132) (the Ordinance) which prohibits anyone to rake or pick over any waste deposited in a public refuse collection point. Yet, the refuse collection point is the best battle ground to properly handle the waste collected at source. Our system just forbids us to do so. Another example is, the Government always tells us that food waste constitutes 40% of our household waste and most of the food waste has to be treated collectively at the refuse collection points before it can be diverted to other treatment facilities, but this is forbidden under the Ordinance. Section 14 of Cap. 132BK provides that pigwash must be removed or carried away between midnight and 9 am and commercial pigwash must be disposed of by the relevant commercial institutes themselves. Hence, it is illegal for food establishments to

deliver food waste to the refuse collection points. However, it is exactly due to this reason that the Secretary is faced with so many obstacles in dealing with the recovery of food waste.

I once discussed the problem of food waste recovery with a friend from the trade. I asked him how much food waste he produced and he told me he produced about two full truckloads of food waste every day. I asked him how he dealt with it and whether he was interested in negotiating for a contract for recovery of food waste. He said that he would not do so because of the great problems with the storage of the waste and he did not know how to handle it when the waste smelt. There is a big problem here. While large quantities of food waste is awaiting recovery and commercial food waste has great utilization value and it can also be properly processed after recovery, the law has just imposed too many restrictions on that.

I wonder if the Secretary has ever considered that he must seriously examine the constraints that the waste management legislation enforced by various government departments has on the implementation of waste management. Is there any way to integrate the work in this blueprint or even reassign the authorities and functions of various departments?

In many foreign cities, the work concerning waste management, resource recovery and recycling is not divided into two major policy areas resulting in failure to promote co-operation among the departments. However, this is exactly what happens in Hong Kong.

Of course, looking at the history of Hong Kong, we first established the Department of Health as it was most important to keep the community clean, and when the community was clean, problems could be solved. However, as the community developed into a modern city, cleanliness alone cannot be the only feasible or possible criteria for waste management. It is most important to enable the effective operation of waste management in the whole community. It is a shame that — perhaps due to the restrictive scope of the Amendment Regulations under discussion today — in our discussion about the charges of RTSs, we find that whenever the Government considers this issue, it very often confines itself to a very limited scope.

Every time we discuss the charges of RTSs, we notice a very strange or even absurd phenomenon. On the one hand, the Government sets up landfills

which are free of charge; but on the other hand, RTSs which can effectively handle the odour nuisance of the waste and reduce the nuisance on the road are subject to a fee. Of course, from the perspective of the Government, these fees are very low, which constitute a very small part of the overall operation cost and should not affect the choice of the trade. However, is it really so? The responses of the industry at the public hearing reflected that it was not the case. This reveals the attitude of the authorities toward waste management. Perhaps because Secretary WONG Kam-sing assumed the office too late, he only has very limited time to address these problems. However, when he has to deal with a whole bunch of problems in such a very limited time frame, I am very worried that he is incapable of integrating and tackling all the problems which involve so many aspects.

Lastly, regarding the entire waste management policy, can the Government find some ways to tell the whole community that waste materials are valuable resources? There are two aspects involving their value. The first is the value of the waste materials, including newspaper, metals and aluminum cans which can be properly recovered in the resource recovery process. But other materials cannot be recycled. Why? That is because those materials do not have the value as the former, that is, the value of the resources. The second is the intrinsic value brought by these materials to the whole community as regards the social costs.

I very much hope that the Secretary will accord a high priority to these tasks when considering the future work, or when formulating the Policy Address and the Budget. In implementing resource recovery, such tasks should be accorded a higher level, so that the policy and structure of waste management can meet the present social needs. I especially implore the Secretary to tell us, in proposing the setting up of resource recovery centres in the 18 districts, why he has to abandon the refuse collection stations already set up by the FEHD in the district? Why can't the FEHD co-ordinate with the Environment Bureau, as mentioned in the government paper, to provide compaction equipment to effectively mitigate the nuisance arising from waste collection and extend this approach to all FEHD refuse collection stations or those stations managed by the Government or the Housing Authority which can also provide such facilities? This is also conducive to the authorities' overall waste management work, so that they do not have to lobby every district for support to construct a refuse recovery centre (or resource recovery centre). As a matter of fact, I know that the authorities have to face great obstacles. For example, when they went to the

Eastern District to lobby for support to set up a resource recovery centre, they met with great difficulties; and when they went to other districts, they also encountered great opposition. However, why should they forsake the resources that can be shared among various government departments in supporting one another? If it is possible to provide waste compaction facilities in these premises, it will leave more room for tackling the resource recovery problem.

From the legal perspective, is it necessary for the FEHD or the Food and Health Bureau to remove the constraints, so that the refuse collection stations in different districts can form a big and most effective district network? Will this be more cost-effective than finding resources to set up a resource recovery centre in each district? I hope that the Secretary — I am taking this chance to elaborate on this subject — would seriously consider how to integrate (*The buzzer sounded*) ...

PRESIDENT (in Cantonese): Mr WU, your speaking time is up.

MR WU CHI-WAI (in Cantonese): ... the policy support of the various departments. Thank you, President.

MISS ALICE MAK (in Cantonese): President, waste management is a big headache to everyone. The problem facing Hong Kong now is the lack of space for the disposal of the ever increasing amount of waste. We have talked about waste separation, recovery and recycling for over a decade, but there is still no policy, no space and no progress in this respect. The quantities of usable materials dumped into the landfills still continue to increase. It is announced in the Policy Address that a green station will be developed in each of the 18 districts. This is of course a good proposal but we do not know when it will be implemented. As regards the extension of landfills or the construction of incinerators, society has yet to reach a consensus. These are undeniably tremendous tasks.

Today, the amendments proposed by the Environment Bureau to the Waste Disposal (Designated Waste Disposal Facility) (Amendment) Regulation 2013 (DWDF Amendment Regulation) are only some minor patch-ups, but at least it is better than no patch-ups. The Federation of Trade Unions (FTU) supports the

passing of the DWDF Amendment Regulation today. The DWDF Amendment Regulation proposes that all refuse collection vehicles (RCVs) should be fully-enclosed. We hope that there will be no more such nuisance as litter and dust flying, and leachate spattering. More importantly, we hope that the odour nuisance will also be mitigated and hence the impact on other road users and the residents living in the vicinity of RCV routes will also be abated. However, we also hope that the Government will set an implementation timetable expeditiously. In fact, these measures should be carried out as soon as possible but surely, it is better late than never.

Waste collection and transfer is an offensive trade but the fees charged are minimal and there is no way these fees can be substantially raised. Therefore, we very much hope that the Government will assist the contractors in this trade to replace their RCVs, so as to alleviate their financial burdens. We hope that with government subsidies, employers need not pass the cost of replacing their vehicles onto the workers or raise the waste collection fees, which will in turn add to the burden of the public. A win-win situation can thus be effected.

Another main point of the DWDF Amendment Regulation is to provide that the Tseung Kwan O (TKO) Landfill will accept construction waste only. We support this proposal reluctantly. In fact, if the TKO Landfill accepts construction waste only, the environment in the vicinity of Wan Po Road will be improved, and we believe that the odour emitted from the landfill will also be reduced. However, we worry that this kind of burden will be passed onto the people in other districts. Hence, I hope that the Secretary will not just take the TKO Landfill into account but also consider the feelings of residents in other districts.

We agree to reduce the fees charged by refuse transfer stations (RTSs) but as RTSs charge a service fee while landfills are free of charge, it will directly influence contractors' choice. As a matter of fact, waste is compacted to a smaller volume in RTSs which is then diverted to less used landfills for disposal. However, because landfills are free of charge, many contractors opt to directly haul the waste to the landfills and dump it there. That will defeat the purpose of RTSs, the function of which is to compact and divert the waste. We hope that the authorities will further reduce or even waive the fees of RTSs, so as to encourage contractors to fully utilize them rather than directly disposing the waste at landfills.

Moreover, I also wish to talk about the waste delivery routes as today's amendments will also affect such routes. Take the Tuen Mun Landfill as an example. At present, 70% of the waste processed at RTSs is delivered to landfills by sea. If more drivers opt to deliver the waste to the Tuen Mun Transfer Station where the waste will be compacted and delivered by sea, it will reduce the impact of delivery by road on the residents. Besides, apart from transportation by sea, the FTU also suggests that the route to the Tuen Mun Landfill should be improved by widening and improving the roads in Tuen Mun, so as to facilitate the flow of RCVs that haul the waste at the Landfill and reduce the burden on the roads in Tuen Mun. Just like the present extension of Wong Chu Road and Lung Mun Road, we hope that the authorities will seriously consider doing the same for the other roads.

As regards waste management, the Policy Address mentions about developing one green station in each of the 18 districts. We suggest that these green stations also serve as a recovery centre to process organic resources, separate the waste in the local district, as well as recover and recycle reusable resources, thereby mitigating the pressure on the landfills. As a test point, we suggest that an organic resource recovery centre be built at the sand depot. The sand depot is far away from residential areas and hence the impact on the people can be minimized. Besides, other than centrally processing the waste from Tuen Mun, the centre can also create job opportunities.

As a matter of fact, the FTU has since 1999 advocated the development and enhancement of the local recycling industry. In the Policy Address just delivered, the Chief Executive proposed to earmark \$1 billion to launch a Recycling Fund, which can rightly be used for the continuous development of the green collar in respect of recovery, separation and recycling, thereby creating jobs in the local districts and developing the sustainable recycling industry in Hong Kong. However, Secretary WONG Kam-sing, before I came down to this Chamber, I had just talked to several waste recyclers at my office. They told me that they were faced with fierce competition in this industry and they were actually operating at a loss. They lost money because they ran their business honestly. They just cited an example. Some properly licensed recyclers would acquire used cooking oil from food establishments at a lower price but certain recyclers would offer a higher price to acquire the used cooking oil. No one knew how the used cooking oil recovered would be used. After undergoing what they claimed a recycling process, would this recycled oil end up as cooking oil for our use again. This is the problem that we are worried about.

Therefore, we think that after the establishment of this \$1 billion Recycling Fund promised by the Government, it can provide support for the recycling industry to recover a number of resources that are especially in need of support, including food waste, plastic materials and used cooking oil. We also hope that the Government will consider how to fully utilize this \$1 billion Fund to help the underprivileged in the recycling industry by providing them with subsidies, so that they can develop the local recycling business.

Concerning the biggest problem facing Hong Kong, which is the recovery of food waste, we know that some private housing estates have already launched their own recycling schemes. Residents are encouraged to dump their food waste into the waste recycle bin at the building management office every day, and these housing estates have the recycling device to turn food waste into compost. However, as the biggest developer of Hong Kong, the Housing Authority (HA) is as reluctant as ever to expand the food waste recovery scheme. We know that some newly completed HA housing estates, like the Tin Ching Estate in Tin Shui Wai, have launched a pilot food waste recovery scheme but I do not understand why being the biggest developers in Hong Kong, the HA or the Housing Department are reluctant to assist in the implementation of such a useful food waste recovery plan. I can recall that at a meeting of the Housing Panel, we proposed that the HA should expand the food waste recovery plan but the Permanent Secretary for Transport and Housing immediately responded, "As we are under the Transport and Housing Bureau instead of the Environment Bureau, this matter is not our business." Therefore, since waste recovery is a popular issue which is also a grave concern of society, we hope that the Secretary will tackle this issue at an inter-Bureau level.

Apart from the resource recovery stations managed by the Food and Environmental Hygiene Department mentioned by Mr WU Chi-wai just now, we also hope that each Policy Bureau will endeavour to carry out separation of waste at source within their ambit. For example, the Housing Department can launch a food waste recovery scheme in all its housing estates and HOS estates, so as to set a good example for others to follow. This not only serves the education and publicity purposes, but facilitates the development of food waste recycling trade in Hong Kong. We should not miss such a good chance and we do not think that waste management or environmental protection policy should just be the responsibility of one Policy Bureau, that is, the Environment Bureau. Rather, the whole SAR Government should share this responsibility. If everyone has the mentality of "better not leave the waste in my backyard" or if other Policy

Bureaux also have this mentality, that is, better not ask them to handle such tough problems, and these problems have nothing to do with them, I believe that the environmental problems in Hong Kong will never be solved. No matter how hard the Environment Bureau promotes the measures about landfills and incinerators, it will never gain the trust and understanding of the people, for even the Government has not done a good job.

Separation, recycling, recovery and reuse are the best way to dispose of the waste in modern society. In South Korea and Taipei, people separate their waste properly and incinerate the small amount of the remaining waste. After incineration, the volume of waste will be significantly reduced and that will also abate the pressure to extend the landfills. Of course, we understand that all regions may need certain landfills as the final repository for the incineration ash left behind and other non-combustible waste, but we hope that through separation at source, incineration and landfills, the waste management problem in Hong Kong can be solved.

As I have said just now, this problem cannot be solved by minor patch-ups, like amending the regulations this time or other minor gestures taken by the Environment Bureau or the Environmental Protection Department. To solve this problem, the whole Government needs to have a direction and it also needs the co-operation of various Policy Bureaux. The Government has promised to establish a Recycling Fund of \$1 billion. Secretary WONG Kam-sing, I have great expectation of you. I seldom agree with Mr WU Chi-wai but this time I lend him my support. As pointed out by Mr WU Chi-wai, perhaps the Secretary assumed the office too late because in the past few years, the environmental protection work in Hong Kong was lagging far behind others. Basically, we have been marking time or even regressed in this area of work. Therefore, I hope that this time, under your leadership, the \$1 billion Fund and the whole Environment Bureau can truly help green collar industries to attain some good results, and the recycling industry to achieve some positive development.

The recyclers whom I met just now are also making great efforts in the hope that through the industries that they engage in, they will benefit the Hong Kong economy and create jobs. They also wish to solve the environmental problems in Hong Kong. They have great faith but lack support. They have visited various places, including South Korea and Taipei, to see how those places manage their waste. These recyclers really have the heart to get the work done. We hope that the Secretary will truly do a good job in this aspect, make good use

of the \$1 billion Recycling Fund to help Hong Kong's recycling industry develop and secure a long-term solution to Hong Kong's waste management problem.

President, I so submit. Thank you.

MR FRANKIE YICK (in Cantonese): President, the aim of the Government's amendment to the two Regulations today is to put into effect the restriction that the South East New Territories (SENT) Landfill, located in Tseung Kwan O (TKO), will accept only construction waste, so as to mitigate the nuisance caused to TKO residents during the delivery of waste to the TKO Landfill. After the TKO Landfill stops accepting municipal solid waste (MSW) in future, the authorities will open up the refuse transfer stations (RTSs) exclusively used by the Government and its contractors at present for use by private waste collectors to divert some 2 500 tonnes of MSW originally delivered to the TKO Landfill to other waste disposal facilities. Given that the TKO Landfill is closest to the residential area, the Liberal Party supports any measures that can mitigate the nuisance caused by the Landfill to TKO residents. However, I have to reiterate that the support given by the Liberal Party today does not necessarily mean that it will continue to support the extension of the SENT Landfill.

TKO residents have complained for years about the odours emitted from the refuse. Residents living in the neighbourhood of Wan Po Road in particular suffer most as Wan Po Road is the main road connecting to the SENT Landfill, hence there are more refuse collection vehicles (RCVs) travelling on this road section. The odour nuisance is mainly caused by RCVs not equipped with the tailgate cover and as the vehicles drive by, the odour emitted from the refuse collected is spread by the wind. Besides, leachate from the compacted food waste and other waste in the RCVs would drip onto the road and emit offensive smell. To reduce the pollution caused to the environment by RCVs, the Government requires, through the regulations proposed today, the RCVs driving in and out of landfills and RTSs to meet certain equipment standard requirements, including installing tailgate covers and waste water sump tanks.

However, someone in the waste management industry have told me that the capacity of these waste water sump tank is only about 400 litres at most, but private RCVs can collect up to 1 000 litres waste water within two to three hours from the food waste collected. When collecting waste in areas abound with food establishments, they will have to deal with even more waste water. Very often

well before RCVs can discharge waste water in the landfills, their waste water tanks are already filled up. Therefore, they urge the Food and Environmental Hygiene Department (FEHD) to open up the public refuse collection stations in various districts to let private RCVs discharge waste water at those stations in the course of waste collection, so as to reduce the impact on the environment caused by the tank overflowing and leachate dripping on the road. I had already put forward this request at the meetings of the Subcommittee. While I understand that some of the refuse collection stations are not equipped with waste water processing facilities, I still hope that the Government will consider the industry's suggestion seriously.

Owing to the requirements for RCVs, the actual effective date of the Regulations will depend on the progress of the retrofitting works of the vehicles. At present, the target is to finish the retrofitting works of all RCVs before the end of the first quarter in 2015. But the industry has told me that as this involves quite a number of vehicles and there are only five companies in Hong Kong that undertake such works and each company can only retrofit three vehicles simultaneously, hence they consider that the target date set by the Government may not be feasible. Moreover, the waste management contractors worry about the diversion arrangements after the TKO Landfill stops accepting MSW. Therefore I hope that the authorities will proactively discuss with the waste management contractors in the meantime to minimize the impact on the industry.

To cope with the situation after the TKO Landfill stops accepting waste other than construction waste, the Government will open up the Shatin Transfer Station (STTS), which is at present exclusively used by the FEHD and its contractors, for use by private waste collectors to handle the MSW used to be delivered to the TKO Landfill. This can spare waste collectors from travelling long distances to deliver the waste to the other two landfills which will increase the frequency of RCVs running on the road, thus increasing the burden on the road and the impact on the environment. At the same time, the fees charged by the Island East Transfer Station and Island West Transfer Station will be adjusted downward from \$40 to \$30 per tonne, to be on a par with that of the West Kowloon Transfer Station, which is the busiest, and the STTS in future.

Although the fees will be reduced, as disposal at landfills is free, the industry has in the past chosen to dispose the waste collected on Hong Kong Island at the TKO Landfill even though that involved a longer drive and Cross Harbour Tunnel toll, instead of delivering the waste to be processed at the two

RTSs on the Hong Kong Island, just to save the costs. Hence, among the 400 RCVs disposing waste at the TKO Landfill each day, about half of them are from the Hong Kong Island. However, when the TKO Landfill stops accepting MSW in future, the industry estimates that under the proposed arrangements of the Government, the waste processing costs will surge with the additional cost incurred by each RCV amounting to over \$20,000 a month. At present, each RCV makes about \$60,000 a month on average and all expenses, including fuel, maintenance and Cross Harbour Tunnel toll, amount to about one half of that, about \$30,000. As pointed out by the industry, with the additional RTSs fees of over \$20,000 incurred, small enterprises and single-vehicle owners will have little room for survival. As Mr WU Chi-wai has explained, with no bargaining power, they may not be able to pass the additional cost onto the public. In the end, they will go out of business and be eliminated.

The Liberty Party considers that at present, some of the rates paid by the people are used to pay for waste processing. As the rates are charged on the basis of rateable values of properties, the Government has actually overcharged the relevant waste processing fees over a period in the past due to soaring properties prices. If RTSs charge waste collectors for a fee and waste collectors pass the increased cost onto the people, people are subject to double charges, and that is very unreasonable. Therefore, the Liberal Party opines that the authorities should consider waiving all RTS fees.

When I put forward the proposal to waive the fees at the meetings of the Subcommittee, it was rejected on the ground of the "polluter pays" principle. The authorities advised that they would consider implementing a trial scheme of free service at the STTS for a certain period of time. However, the industry thinks that the effect of this trial scheme is minimal and it may not be able to find out the real effect of waste diversion. If the STTS is free of charge, it may attract waste collectors in other districts to transfer the waste to Sha Tin and the waste collected on Hong Kong Island will also be transferred to the STTS for processing. If the fees for all RTSs are waived, waste collectors do not have to consider the waste processing fees and they will naturally opt to deliver the waste to the RTSs in the local district. Only under such circumstances will the Government find out clearly the real effect of waste diversion at each RTS after the TKO Landfill stops accepting MSW. This will also reduce the unnecessary distance that RCVs have to travel, thus alleviating air pollution and road congestion.

As a matter of fact, the advantage of RTSs is that waste delivered by RCVs to RTSs will be compacted, packed into containers for transportation by sea to landfills. Even if the container is transported by land to landfills, as much as 24 tonnes of compacted waste can be packed into a container, whereas according to the Government, each RCV can only carry 5 tonnes of waste on average. In other words, a container can carry a total of five RCV-loads of waste, thus reducing the time and distance these vehicles travel on road, and hence their impact on traffic and environment and the nuisance caused to the residents in the relevant districts will also be reduced. Therefore, we think that the Government should further strengthen the present network of RTSs and increase the use of waste delivery by sea. In fact, as the Government is studying the development of rock caverns to provide more land for the use of certain unpopular industries, we think that the Government should seriously consider converting more caverns into RTSs. The Island West Transfer Station is provided in an artificial cavern. It can reduce the impact on residents.

Earlier, members of the Panel on Environment Affairs of the Legislative Council visited the STTS. As the STTS has installed sewage treatment and deodorization facilities, it does not cause nuisance to the residents in the neighbourhood. Besides, the transfer station and the road leading to the station are cleaned every day to remove the waste spilled from the RCVs. To further address people's concern about the hygiene of RTSs and RCVs, the authorities can consider installing vehicle cleaning facilities in each RTS to clean every RCV before it leaves the station, so as to prevent waste left outside the vehicle from dropping onto the road.

The Liberal Party welcomes that the authorities take the initiative to propose the amendments. After the amendments are enacted, the legal responsibility borne by RCVs that do not meet the equipment standard requirements will be more clearly defined.

President, in the face of landfills reaching capacity and the ever increasing amount of refuse, it is necessary for Hong Kong to find a proper way to manage MSW so as to attain sustainable development. However, the Government's current strategy is basically piecemeal and fragmented. When dealing with the problem of refuse odour, the Government requires RCVs to install tailgate covers and waste water sump tanks. After a landfill stops accepting MSW, even with the provision of RTSs, the waste is only diverted to other landfills but its amount remains the same. Therefore, the Liberal Party hopes that the authorities will

formulate positive measures to achieve three Rs, namely, reduction, recycling and reuse, so as to effectively reduce the waste produced.

President, I so submit.

MS CYD HO (in Cantonese): President, the Government failed to seek funding approval from the Legislative Council for the extension of a few landfills in 2013. This is certainly an unpleasant experience for the Secretary but the failure has positive impacts on waste management. The greatest positive impact is that it made the Government realize that this is a pressing problem, and it must have the determination to expeditiously implement measures that have been stalled; otherwise, the city will be besieged by refuse, as the Secretary has said. By then, all households will have to burn refuse on their own as there is no alternative.

What has the Government done after the last unsuccessful application for funding approval? First, the authorities set aside \$18 million for retrofitting refuse collection vehicles (RCVs) and subsidizing the industry to retrofit their vehicles. As retrofitting takes time, the current provision on the structural design of RCVs requiring the use of fully enclosed tailgate covers and waste water sump tanks may not be able to take effect immediately, and it can only be implemented upon completion of retrofitting by the industry.

The above requirement is one of the improvement measures. The current legislative amendments also reduce the rates of refuse transfer stations (RTSs) to achieve proper waste diversion, and that is the second measure. The third measure to be taken by the Government is that, as finally stated in the Policy Address, it has earmarked \$1 billion to launch a Recycling Fund, which shows its commitment towards the promotion of recovery and recycling. As for the fourth measure, the Government has, in an unprecedented efficient manner, commissioned a consultant to study, within a short period of eight weeks, waste recovery and recycling and make more detailed planning of the process and staffing needed for recovery and recycling.

For this reason, President, failure is sometimes not a bad thing. If the last application for funding approval is approved, the above measures may be stalled and I have no idea when they will be implemented. Therefore, we welcome the present legislative amendments of the Government. These amendments

comprise two parts and the first part involves RTS charges. This is almost tailor-made for Tseung Kwan O (TKO) residents because the TKO Landfill will no longer accept domestic solid waste, including food waste, in future and it will only accept construction waste, a half of which is inert waste. In other words, waste to be transported to the TKO Landfill in future will no longer cause nuisance, such as odour and leachate dripping, though dust is still a problem. We also hope that through sharing out responsibilities, domestic waste that give out bad smell will no longer be transported to TKO. With these measures, we hope it would be easier for the residents to accept the proposal on the extension of landfills.

However, what will be the result? With the diversion of domestic solid waste to other landfills, we are worried if the traffic flow (especially RCVs for transporting obnoxious waste) will be diverted to other districts. Therefore, we hope that the measures for retrofitting RCVs would help alleviate the problem. Nevertheless, I must tell TKO residents that, after the commencement of the legislation, domestic solid waste from places that are 0.5 to 1 km from the TKO Landfill (including LOHAS Park) will be transported to other areas, rather than being treated in the same district. I hope TKO residents would understand that, by sharing out responsibilities, residents of other areas will have to tolerate the nuisances arising from domestic waste from TKO in future. I hope that this measure of shared responsibility will facilitate discussions about the proposed extension of landfills in various districts.

Concerning the impacts on the industry, some private contractors have signed contracts with many OCs, usually for a term of two years, and the costs have been fixed. Therefore, they are very worried that if in future, they cannot deliver refuse free of charge to the TKO Landfill, but have to pay \$30 to the Island East Refuse Transfer Station or other RTSs, their costs would increase. For operators who only recover refuse on the Hong Kong Island, their costs will not necessarily increase because they can save the tunnel tolls, mileage and fuel costs, which should be able to make up for the \$30. Who will be affected? If operators, after collecting refuse on the Hong Kong Island, go to Kowloon West or Kowloon East for refuse collection, and then transport the refuse to the TKO Landfill, they will be affected. Therefore, we hope that the authorities would discuss with private contractors before the commencement of the legislation, so as to help them consider how to rationalize the collection route. Furthermore, I wonder if the authorities would consider providing subsidies during this period until the contractors have fulfilled the existing contracts or the contracts based on

the old costs. In future, the contractors will be able to sign new contracts with OCs on the basis of the new costs. Only in this way can we genuinely follow the "polluter pays" principle; otherwise, the contractors caught in the middle would have difficulty in handling a sudden increase in costs.

In addition, President, the process of refuse delivery is also a major source of nuisance to residents. In the past, many private RCVs did not have fully enclosed tailgate covers. As Honourable colleagues have said, there are problems of leachate dripping during delivery. There are cases that in order to carry more refuse in a RCV to complete the delivery process, refuse is compacted halfway. As a result, leachate including liquid from leftover food, leftover milk, lemon tea, and so on, have been dripping and polluting the road.

The amendment legislation requires all RCVs to be retrofitted with waste water sump tanks. However, if the design does not have the support of a system, workers can still transport refuse together with waste water to the RTSs or drain away waste water on the way if possible. If workers open the lid of the waste container, waste water will be dripping from the RCVs. Therefore, the Government should consider Honourable colleagues' proposals of allowing the discharge of waste water from RCVs at midway in refuse collection stations or other places. If the Government does not have other supporting measures but simply draw up hardware design requirements, it will not be able to achieve the desired objectives through this legislation.

During our deliberation, we have also asked officials if larger waste water sump tanks can be designed. According to our current discussion with the industry, the tank volume of 150 litres or almost 150 bottles of water is not large enough. We hope the authorities would discuss frankly with the industry and they must design waste water sump tanks with sufficient capacity, so that RCVs can discharge the collected waste water at the last stop. The authorities should not casually design a waste water sump tank with a capacity of over 100 litres because waste water will still be dripping from RCVs on the way if the tank is not big enough to hold the waste water. Similarly, the industry should be careful for they would violate the law if they do so.

President, I would also like to talk about construction waste. Originally, the authorities specified through administrative measures that, in future, the TKO Landfill would only receive construction waste, which would greatly improve the situation in the district. However, this measure alone is not enough. It is

because we have heard from the residents that when the weather is dry and windy, a lot of dust will be flying on the street, so the problem is not solved. We notice that the Government has stated in the papers submitted to this Council that future projects involving contracts totalling more than \$20 million will require the transportation of construction waste using fully enclosed RCVs. In other words, the Government will continue to use administrative means and contractual provisions to require operators to make improvements in this connection. Generally speaking, contracts of over \$20 million involve large-scale construction projects or public works projects.

I would like to ask why the Government would not extend the scope to cover all vehicles transporting construction waste. In fact, a lot of fitting-out works at residential or business units will create dust which will be flying around in the course of transportation. Why does the Government still need to rely on market forces and contractual provisions to improve the situation? Why does the Government still regulate the situation on the basis of this principle instead of enacting a legislation?

Of course, I understand that the Government may be asked by the industry to provide subsidies or assistance, but I think the provision of subsidies or assistance is worth considering. Even if the Government is not going to legislate on this in the short term, the authorities should at least set a long-term goal, so as to let the industry know that this measure will be implemented in the long term. In that case, when the industry replaces RCVs, fully enclosed vehicles will then be used for the transportation of construction waste. Otherwise, TKO residents, especially those suffering from allergic respiratory diseases, will still be dissatisfied with the measures concerning the disposal of construction waste in landfills.

We believe that it is very reasonable to share responsibilities equally. We agree that the 18 districts should have their respective refuse collection stations in the community, and more RTSs should be set up in the regional level. Given the measure of shared responsibility, we hope that the residents in various districts, especially those in North East New Territories, New Territories West and TKO would understand that all Hong Kong people are willing to bear responsibilities for waste management. We hope that the residents in various districts would adopt a more open attitude towards the future proposals on the extension of landfills.

Yet, the most important point is that the Government should improve waste reduction, recovery and recycling. It has finally been stated in the Policy Address that the Government has earmarked \$1 billion to launch a Recycling Fund, but the details are not yet available. We reiterate our request that this Fund must be spent and exhausted within a short period of time; otherwise, it will not be very effective if the \$1 billion is to be spent over a 10-year period. We also ask the authorities (including the Secretary and the Financial Secretary) to make commitments in the coming budget that, upon the completion of the Bureau's consultancy study when specific plans and staffing arrangements have been made for the recovery and recycling of various types of waste, they will be committed to turning this Fund into recurrent expenditures after the amount of \$1 billion has been exhausted within a short period of time.

President, landfilling and incineration are necessary evils; they cannot be avoided and recovery and recycling are indispensable. After stalling for many years, the authorities need to generously allocate more funds in this connection, and discuss with the industry and civil organizations in the community. Otherwise, we can extend the landfills but these landfills may soon be saturated 10 years later. We will then have to defuse this political bomb again 10 years later. This is not a price we want to pay. Thank you, President.

PRESIDENT (in Cantonese): Does any other Member wish to speak?

MR CHAN HAK-KAN (in Cantonese): President, Hong Kong people understand very well that the problem of waste disposal is imminent. Our present methods and facilities for waste disposal are insufficient to meet future needs. However, these obnoxious facilities have certain degrees of adverse impacts on residents, such as odour. Residents living near the landfills are particularly affected. The problem of leachate dripping from refuse collection vehicles (RCVs) during waste transportation will affect the overall cleanliness of the city and environmental hygiene. As the Government did not have appropriate supporting policies and measures in the past, contradictions have arisen in respect of "effectively improving the living environment" and "properly handling waste in Hong Kong". People even lost confidence in the Government's handling of solid waste. The motion to amend the regulation specifies that RCVs should comply with certain equipment requirements and that the South East New Territories (SENT) Landfill should only receive construction

waste. This has precisely responded to the demands of the public and I am in support of the amendment.

President, the leachate dripping problem of RCVs has been discussed in this Council many times. I believe that the retrofitting of RCVs with metal tailgate covers and waste water sump tanks according to the current requirements of the Government can improve the situation. Nevertheless, whether the problems of odour and leachate dripping can be completely eliminated will depend on two factors, that is, whether there are rigorous and adequate enforcement actions, and whether RCV users will use the equipment properly.

Concerning the first factor of rigorous and adequate enforcement actions, we had discussed at meetings of the Bills Committee. When law-enforcement officers took actions between August and November last year, they had initiated prosecution but had not conducted detailed inspection of the equipment of RCVs. Therefore, it was uncertain if the RCVs had appropriate or effective equipment for preventing the dripping of leachate. This is a vivid example illustrating that the dripping problem will still exist even if the legal provisions have been improved. If the Government does not address squarely these loopholes, it will not be able to rebuild public confidence in its ability to solve the problem of RCVs.

As for the second factor of whether RCV users will use the equipment properly, the authorities must step up inspections and enforcement, as well as educate users on how to use RCVs retrofitted with new equipment. After all, it is something new in Hong Kong for RCVs to be retrofitted with metal tailgate covers and waste water sump tanks. The Government should give RCV drivers some time and room to adapt to the changes. This would ensure that RCV drivers who have carelessly and accidentally violated the law would not be prosecuted and environmental nuisance would not be caused.

We very much hope that the Government would continue to monitor if the one-off subsidy can effectively assist private RCV owners in completing the necessary retrofitting. We also know that there are not many contractors to undertake the retrofitting works, thus we are worried that the contractors may not have time to undertake the projects, and we are worried if some people with evil intentions would increase the charges, making the Government's subsidies meaningless.

About the SENT Landfill, we understand that it is really very close to the residential areas; as the distance is only 1 km, residents have to bear the brunt, and suffer from odour nuisance. We believe that we must first solve this problem. Since the source of the odour is food waste generated every day, it is imperative to think of ways to dispose of food waste or transport it to an organic resource centre. As for the remaining municipal solid waste, there is only one way out, that is, to transport them to the landfills. Undeniably, this would greatly increase the burden on landfills in Hong Kong. If such odour emitting refuse is not transported to the SENT Landfill but to the landfill in Ta Kwu Ling in the North District or to the landfill in Tuen Mun, I believe people in these districts will also express concern. Nonetheless, we find it necessary for people over the territory to adopt the concept of shared responsibility for refuse disposal, and we hope residents in the North District, Tuen Mun and Yuen Long would understand that this policy is adopted because we do not have another way out.

Should this policy be accepted reluctantly? Is there no other solution? We think this may not be the case. For example, we can use other transportation methods. Refuse is sometimes transported by land to Tuen Mun and I wonder if the road capacity can cope with the increasing demand. Can we transport the refuse by sea, so as to reduce the overall burden on road transport with RCVs running along roads and streets?

Furthermore, we have all along proposed that Sha Tau Kok Road in the North District may not be able to cope with the future increase in RCVs. The Government really needs to consider how Sha Tau Kok Road can be widened. On the one hand, it has to cope with the increased traffic flow of RCVs; and on the other hand, there are increasing numbers of tourists and members of the public visiting Sha Tau Kok since the opening of the Frontier Closed Area, and the roads can no longer cope with the increasing traffic. If more RCVs will be running in the area, the problem of traffic congested will not only occur on Saturdays and Sundays as in the present case, but on weekdays as well.

The Government must implement these improvement measures for residents living in the North District and Tuen Mun. As we have also suggested, in building obnoxious facilities, the Government must strengthen contacts with the districts and local residents. For example, during the visit by the Panel on Environmental Affairs of the Legislative Council to South Korea, we noticed that a monitoring group for obnoxious facilities was formed by civil organizations and the Government. We hope this approach would also be adopted in Hong Kong.

The Government should form monitoring groups with representatives from local residents when it expands or extends the landfills or constructs incinerators. They can directly reflect the demands of the residents and the Government can communicate with the public through the monitoring group and strengthen the procedures for waste management. Even after the construction of landfills or incinerators, we still need to continue to maintain contacts with these groups, so as to enhance transparency of the Government's waste management facilities.

Finally, we wish to point out that we cannot simply rely on landfills and incinerators for disposal of solid waste, and we also need to suitably reduce waste at the source. As the Government has just launched a consultation on refuse levy and the Panel on Environmental Affairs of the Legislative Council will hold discussion on the three landfills and one incinerator in late February, I believe there will be more promising development in respect of waste disposal in Hong Kong. We will no longer solely talk about building an incinerator. I trust that the Government should seize the opportunity to step up communication with the public and various stakeholders, so as to achieve a win-win situation in improving the environment and waste disposal.

With these remarks, President, I support the motion.

PRESIDENT (in Cantonese): Does any other Member wish to speak?

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If not, I now call upon the Secretary for the Environment to reply.

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, I thank Members for their speeches and their views on the Waste Diversion Plan (WDP) for the South East New Territories Landfill.

We believe that with the phased implementation of the Hong Kong Blueprint for Sustainable Use of Resources 2013-2022, which includes waste reduction, recycling and increasing use of waste to energy technology, and coupled with the various legislative and administrative measures, the

environmental performance of the existing waste collection system can be improved. The diversion of waste can continue to be properly handled under the existing waste collection system without causing any traffic and environmental nuisance. Regarding the views put forward by Members, I will highlight the Government's responses as follows.

First, in respect of the equipment standards of other refuse collection vehicles (RCVs), especially the vehicles for transporting construction waste, there are relevant provisions in the existing legislation enabling the enforcement agents concerned to take action against vehicles that have caused nuisance. Therefore, any kind of RCVs which cause nuisances will commit an offence. We have strengthened the co-operation among various Policy Bureaux and departments, including stepping up law-enforcement actions on Wan Po Road in Tseung Kwan O. Positive results have been observed and the industry has improved its operation in this respect.

Second, concerning the extension of the three landfills and the related traffic problems which are of great concern to the public, the Government's stance is that it is necessary to extend those landfills, including the South East New Territories (SENT) Landfill. As a matter of fact, after the full implementation of the WDP, a large quantity of construction waste still needs to be disposed of at the SENT Landfill. By designating the SENT Landfill to receive construction waste only, we have taken into consideration the demand for waste facilities in Hong Kong, and at the same time ensured that the extended SENT Landfill can continue to operate on the premise that the impact on the neighbouring areas will be minimized. We have put in place ancillary facilities accordingly to minimize the possible impact on the traffic and environment caused by waste diversion, and one of such facilities is refuse transfer station (RTS). By taking full advantage of RTSs, it is estimated that the rate of the waste processed at RTSs will increase from about 64% at present to about 83%, and the rate of waste transported to landfills by sea will increase from about 40% at present to about 60%. Moreover, regarding the West New Territories Landfill located in Tuen Mun that some Member has mentioned about, the rate of waste transported there by sea will also increase from the present 70% to 80%.

Third, as regards the fees charged by RTSs, we consider that it is necessary to adhere to the fundamental principle of "polluter pays", and it is not appropriate to process the refuse free of charge. Therefore, we will conduct a comprehensive review on the RTS charging policy in the light of the role played by RTSs in waste management in Hong Kong, as well as the development of

other policies, like the charging of MSW. As far as the WDP is concerned, we consider that to further reduce or even waive the RTS fees, it will directly affect the usage of RTSs, which may lead to demand outstripping supply, and even the suspension of services at certain RTSs if the waste delivered to those RTSs exceeds their designed capacity. This will significantly affect the daily flow of waste collection all over Hong Kong and I hope Members will understand.

Fourth, concerning the effective date of the implementation. We understand that owing to the WDP, the cost of individual waste collection services will increase. We are closely liaising with the industry and we will allow sufficient time for waste collectors to make proper arrangements as regards the collection routes and contract price. As such, we will appoint the effective date on which the SENT Landfill will stop receiving MSW by notice published in the Gazette. We will further explain to the Legislative Council the progress of the preparation work. Also, we will appoint the day on which the amendments on the equipment standards of RCVs and the fees charged by RTSs come into operation after considering the progress of the preparation work and related needs. In this way, we can work out the transitional arrangements with the industry properly to ensure that all changes will be carried out smoothly.

Furthermore, concerning the equipment standards, especially the capacity of the waste water sump tanks which has been brought up by Members, we will maintain communication with the industry to seek a satisfactory solution to this problem.

With these remarks, President, I implore Members to support my motion.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by the Secretary for the Environment be passed. Will those in favour please raise their hands?

(Members raised their hands)

PRESIDENT (in Cantonese): Those against please raise their hands.

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Members' motions. There are a total of three Members' motions for this meeting.

First Member's motion: Proposed resolution under the Interpretation and General Clauses Ordinance to extend the period for amending the Antiquities and Monuments (Declaration of Historical Buildings) (No. 2) Notice 2013, which was laid on the table of this Council on 8 January 2014.

I now call upon Dr KWOK Ka-ki to speak and move the motion.

PROPOSED RESOLUTION UNDER SECTION 34(4) OF THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

DR KWOK KA-KI (in Cantonese): President, I move that the motion, as printed on the Agenda, be passed.

At the meeting of the House Committee held on 3 January 2014, Members agreed to set up a subcommittee to study the Antiquities and Monuments (Declaration of Historical Buildings) (No.2) Notice (the Notice), which was laid on the table of the Legislative Council on 8 January 2014. To allow the Subcommittee to have sufficient time for deliberations and to report its deliberations to the House Committee, in my capacity as Chairman of the Subcommittee, I move to extend the period for scrutiny of the Bill to the meeting to be held on 26 February 2014.

President, in the course of discussion, many Members have expressed concern about the two new monuments in the Notice, including Fat Tat Tong at 1 to 5 Ha Wo Hang, Sha Tau Kok, and Tat Tak Communal Hall at Ping Shan, Yuen Long, New Territories. Members noted that Fat Tat Tong is the first monument which still serves as a residence. At the first meeting, the Government did not give a detailed account of its discussions with the owners, such as how to ensure that the future opening and use would be able to achieve conservation of this

monument, as well as the important issue of giving the public an opportunity to participate.

Some Members expressed strong reservations about the Government's conservation and protection of the monuments, including the "point-line-facet" approach adopted by the former Government which is still fairly vague today. Therefore, Members requested that this case and incident should be revisited when the House Committee and the Chief Secretary for Administration has further discussions in the future. After extending the scrutiny period, I hope Members would have sufficient time and more opportunities to listen to specific and practical arrangements made by government officials for the future conservation and protection of these two monuments. While public money is being spent on these monuments — we are not sure how much money the Government will spend in the future — I hope they can best serve the general public.

I move this motion and I implore Members to support it.

Dr KWOK Ka-ki moved the following motion:

"RESOLVED that in relation to the Antiquities and Monuments (Declaration of Historical Buildings) (No. 2) Notice 2013, published in the Gazette as Legal Notice No. 206 of 2013, and laid on the table of the Legislative Council on 8 January 2014, the period for amending subsidiary legislation referred to in section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) be extended under section 34(4) of that Ordinance to the meeting of 26 February 2014."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Dr KWOK Ka-ki be passed.

PRESIDENT (in Cantonese): Does any Member wish to speak?

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

PRESIDENT (in Cantonese): Those against please raise their hands.

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the motion passed.

PRESIDENT (in Cantonese): The second and the third Members' motions are motion debates with no legislative effect. I have accepted the recommendations of the House Committee: that is, movers of the motions each may speak, including making a reply, for up to 15 minutes, and have another five minutes to speak on the amendments; movers of the amendments each may speak for up to 10 minutes; and other Members each may speak for up to seven minutes. I am obliged to direct any Member speaking in excess of the specified time to discontinue.

PRESIDENT (in Cantonese): Second Member's motion: Regulating mobile radio base stations to protect public health.

Members who wish to speak in the motion debate will please press the "Request to speak" button.

I now call upon Mr WONG Kwok-hing to speak and move the motion.

REGULATING MOBILE RADIO BASE STATIONS TO PROTECT PUBLIC HEALTH

MR WONG KWOK-HING (in Cantonese): President, I move that the motion, as printed on the Agenda, be passed.

President, today I move this motion on behalf of many members of the public who are exposed to the effects of mobile phone radiofrequency radiation. The motion on "Regulating mobile radio base stations to protect public health" mainly deals with the present problem of unregulated electromagnetic (EM) radiation, that is EM wave. In this regard, in fact I have been receiving complaints from many aggrieved residents since two years ago. Coming from different districts in Hong Kong, Kowloon and the New Territories, these affected residents, irrespective of their age group, all suffer from headaches, tinnitus, insomnia, nausea, fatigue; some of them even suffer from brain tumour due to exposure to EM wave. Some infants whose bedrooms are located less than three metres from these base stations wail and stay up all night. They can only fall asleep after moving to other bedrooms. These situations reflect the people's actual feelings and natural reactions after being exposed to EM wave.

However, very often these residents cannot get the problems solved if they complain to government departments, which shirk their responsibilities with a number of excuses. One of the excuses is about the effects caused by EM wave. As stated by the Government, the existing regulation in Hong Kong can meet the standards stipulated by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). The situations are in compliance with these standards and so the complaints are not handled at all. The authorities shirk all the responsibilities by stating that all radio base stations approved by government departments comply with these standards. On the other hand, the Government explains that some complaints are not handled because, for one reason, owners' corporations (OCs) have also given consent to the installation of such base stations, and for the other, the EM hypersensitivity report is not a medical diagnosis. Under such situations, there is a lack of complaint channel for many aggrieved residents.

President, is it true that the Government refuses to conduct any research and entertain the affected residents only on the ground that there is insufficient evidence? In fact, similar symptoms are very common. Let us take a look at

this model. We can see that there will still be a lot of loopholes even if international standards mentioned by the Government are introduced. For example, if more than 10 such base stations are installed on the rooftop of a building, the residents' beds may face not only one base station but seven or more than 10 stations. Sometimes residents do not even know the presence of base stations as some are covered up in rooms built on rooftops. Some network operators may rent "sub-divided units" and install numerous base stations there. This affects not only residents living upstairs and downstairs, but also those living nearby. Such practice is now being unregulated. While international standards have only set a very low level of EM wave, there is no restriction on the distance between mobile base stations and the number of such stations.

Moreover, there is no regulation on the power generated by these mobile base stations. Once we took measurement at Great George Building in Causeway Bay in response to a complaint received. After we had referred the complaint to the Communications Authority (CA), the radiofrequency of the base station there was reduced subsequently. As such, how can the Government excuse itself from making regulation on the ground of a lack of data?

President, I have in hand a device purchased by my office which can give EM radiation readings. Such radiation is absolutely measureable. When complaints are received from members of the public, we take measurement with this device. During the process, as we stayed in the buildings for extended period, we suffered from a headache even though we did not have such problem when we first arrived at the building. This is our actual feeling. If today the Secretary still refuses to conduct any research on the problem, I will put up a challenge by inviting the Secretary, the Director of Health and Chairman of the CA to stay in these residents' home for 24 hours, so that they can experience by themselves the effects.

President, the ICNIRP standards adopted by Hong Kong were developed in 1998 and reviewed in 2009. The limit on EM wave power density at 10 million microwatts per sq m is much more lenient than the standard adopted in the Mainland. Research reports released in recent years show that an indoor EM wave level reaching 3 000 or 4 000 microwatts will increase cancer risk by more than four times, while a level at tens to hundreds of microwatts may also cause discomfort symptoms. According to the standards set by the Institute of Building Biology and Ecology Neubeuern (IBN) in Germany, an EM wave level

above 100 microwatts in the sleep environment will cause great disturbance and affect our central nervous system, immune system, cardiovascular system, circulatory system, optical system in the long run, or may even cause cancers.

Dr Peter LEUNG Sai-wing, Associate Professor of the Department of Electronic Engineering of the City University of Hong Kong (the CityU), has pointed out that the standards stipulated by the World Health Organization are too lenient. While some countries have set more strict targets, Hong Kong has not set any practicable targets and the Government has refused to conduct any research. In its reply to me, the Government said that a total of 350 complaints have been received over the past three years. In its view, the situations being complained against can all meet the standards and therefore no complaints have been accepted. President, Dr TSANG Kim-fung, Associate Professor of the Department of Electronic Engineering of the CityU, has also made a suggestion. Based on his research, the effects of radiofrequency will be reduced effectively by raising the radio base stations to a level more than three metres from the ground, that is, the rooftop floor. In that case, why does the Government not approach these experts to conduct follow-up studies?

At present, the Housing Department (HD) has installed some 900 radio base stations in 150 public rental housing estates involving 520 blocks. With an annual income of \$140 million, the HD can in fact allocate part of the income to subsidize university research in this aspect. In my view, this is what a responsible Government should do. Hence, in my motion I suggested that the Government should not use the ICNIRP standards as its "protective shield". It should at least consider several issues, including the rights of the public to know, participate and monitor. At present, the Government will consult affected residents when issuing liquor licenses. But the Office of the Communications Authority (OFCA) does not conduct any consultation in approving new mobile radio base stations or renewing the existing installations. How can this approach be regarded as reasonable?

Worse still, the Administration has now shifted the responsibility to OCs or management companies. As we may all know, how can OCs exercise such powers and functions on behalf of government departments? Moreover, operators in the communications industry may often provide some benefits or concessions, such as paying some fees. If the decision is to be made at the owners' meeting, conflicts will arise among small owners because some unaffected owners may sacrifice the interests of affected owners for those fees.

As such, the suggestion of referring the matter to OCs put forward by Mr Charles Peter MOK in his amendment is not reasonable. I therefore hope that the Government will conduct researches on limiting EM power density and further improve the consultation process. On the other hand, the Government has the responsibility to follow up the complaints lodged by residents from different districts and different age groups by collecting statistics and conducting investigation. Nonetheless, all the Government does when a complaint is received is to give excuses. I think this approach is very unreasonable.

President, the Government advised on 20 June 2012 that there were over 26 000 mobile radio base stations throughout the territory. In its reply to me on 16 October last year, the OFCA indicated that the number had increased to 32 000, representing a shocking growth of 23% or one fourth of the number. This livelihood issue is worthy of concern by our colleagues in this Council irrespective of our political affiliation. All these figures, coming from official replies, are different from the figure of some 10 000 spots as indicated by Mr Charles Peter MOK in his lobbying letter to Honourable Members. As shown in my model here, more than one base station may be installed on one spot, and this exactly reflects the current loophole due to the lack of regulation.

President, I hope that the Government will seriously consider the suggestions put forward in my motion so as to give some hope to the aggrieved residents. Thank you, President.

Mr WONG Kwok-hing moved the following motion: (Translation)

"That in recent years, the number of mobile radio base stations ('mobile base stations') installed by various telecommunications companies on the rooftops and external walls of buildings has substantially increased, and so far more than 32 000 mobile base stations have been installed in Hong Kong; the mobile base stations on quite a number of the rooftops of buildings are very dense, and information shows that 10 or so mobile base stations are installed on the rooftop of a building, with their locations very close to residential settlements, the most serious example being a mobile base station located less than three metres from residents' beds, causing residents to be exposed directly to the effects of radiofrequency radiation emitted by the mobile base station, with cases such as infants having abnormal restlessness and wailing, and adults having symptoms of tinnitus, headaches, insomnia and marked deterioration of concentration,

etc.; besides, mobile base stations installed on the rooftops of buildings also hinder residents from escape when there is fire and impair building structure; and the practice of the Communications Authority ('CA') not consulting affected residents prior to granting approval to telecommunications companies to install mobile base stations has deprived residents of the right to information and the right to monitoring; in this connection, this Council urges the Government to:

- (1) request CA to expeditiously review the vetting and approval procedure for installing mobile base stations to require that CA must consult affected residents beforehand when vetting and approving the relevant new applications or renewal applications, and formulate an implementation timetable for this new procedure;
- (2) expeditiously conduct a study on enacting legislation to regulate the installation of mobile base stations, including regulating the distance between mobile base station and residential settlement, the maximum number of mobile base stations installed in each building and the distance between one mobile base station and another, as well as devising a mechanism for handling complaints about mobile base stations, etc., and formulate a legislative timetable;
- (3) having regard to the dense buildings and high population density in Hong Kong, conduct a study on setting the non-ionizing radiation limits more stringent than those required by the International Commission on Non-Ionizing Radiation Protection, so as to protect public health; and
- (4) request CA, the Department of Health and the Buildings Department to compile records and statistics on cases of mobile base stations affecting residents, and provide solutions to the residents who suffer nuisance."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr WONG Kwok-hing be passed.

PRESIDENT (in Cantonese): Mr Charles Peter MOK wishes to move an amendment to this motion. This Council will now proceed to a joint debate on the motion and the amendment.

I now call upon Mr Charles Peter MOK to speak and move an amendment to the motion.

MR CHARLES PETER MOK (in Cantonese): President, I move that Mr WONG Kwok-hing's motion be amended.

I thank Mr WONG for moving this motion and raising his concerns about mobile radio base stations, as well as the potential effects on public health caused by these base stations. I understand very much the feelings of the public. I believe we all appreciate and are grateful for Mr WONG's concerns on public health all along. However, in today's debate, we do not argue about whether some of us care about health while some do not. We are not opposing each other because it is natural for us to care about public health. I would like to highlight in this debate whether we should make our decision based on scientific justifications or based on our sensibility. It is understandable that we may have fear towards something we do not know or see. However, we should also respect objective scientific figures and avoid adding unnecessary psychological pressure to the public on the basis of some not fully substantiated statements.

My amendment today aims to face up to the trend of rising demand for mobile communications services in Hong Kong, as well as to strike a balance between mobile communications services and public concerns. The radiation emitted by mobile radio base stations should not be over stressed, as it is only one of the radiation sources (not even the greatest or closest source of radiation) faced by urban dwellers. The general public may misunderstand the term "radiation" which is always associated with nuclear radiation. I can affirm that the electromagnetic (EM) radiation emitted by mobile phones and radio base stations is entirely different from nuclear radiation.

We have learned about EM wave in our physics lessons in secondary school. As highlighted in this leaflet published by the Communications Authority (CA), lightning is one of the natural sources emitting EM wave while manmade sources include microwave ovens, mobile phones, automobiles, radars, medical equipment, radios, televisions, computers, wireless networks, anti-theft

systems in shops, cordless phones, radio-controlled toys, and so on. They will all emit radiation. In fact we are exposed to such radiation even when we are standing here. Strictly speaking, EM radiation emitted by mobile radio base stations is no different. On the contrary, it is subject to even more stringent control. For example, in this Code of Practice for the Protection of Workers and Members of the Public against Non-Ionizing Radiation Hazards from Radio Transmitting Equipment issued by the CA, it has cited the reference levels for time-varying electric and magnetic fields of the International Commission on Non-Ionizing Radiation Protection. Besides, I have in hand another Code of Practice entitled Regulations for Electromagnetic Radiation Protection of the People's Republic of China. In fact, if Mr WONG takes a closer look, he will find that the figures cited in these two are similar. We should not simply look at figures from one single source. As we can see, here is a complete table with various figures. If we do not even trust international experts, what basis do we have in setting our own standards in Hong Kong?

Let me further explain that such non-ionizing radiation includes sound wave and light wave, as well as ordinary EM wave, which is entirely different from the radiation perceived by the general public. The radiation perceived by ordinary people is probably ionizing radiation, such as nuclear radiation and radiation emitted by electrotherapy for cancers. Such radiation will release high energy and destroy atoms or the chemical bonds in chemical compounds. It is different from the radiofrequency and non-ionizing radiation in our present discussion.

In Mr WONG's motion, the only major figure provided, as mentioned by him just now, is the 32 000 mobile radio base stations. What he is possibly trying to convey is that these base stations are found everywhere. It seems to be astonishing if we just look at the number but we need to get into the details clearly. In fact, even Mr WONG himself indicates in his model that there may be numerous base stations on one rooftop. Of course, in reality, a base station is not eight storeys high as shown in his model. Nonetheless, these base stations cannot be installed as one pleases, nor can they be installed in any location. The installation must be approved by a number of departments. In fact, my office has also received a lot of complaints from members of the public about the poor reception of mobile signals in certain areas or certain spots at home. They would like to complain through us about the Government's delay in approving the application for installing mobile base stations in such areas.

Even for the same company, there may be several base stations for 2G, 3G and 4G service and hence the increasing number of base stations is normal. The number has further increased with the introduction of 4G service. However, I have actually visited all the companies concerned and find that the total number of their base stations is around 10 000 plus instead of 32 000. Of course, there may be more than one mobile base stations in one location. However, compared with the present 40 000 plus commercial and residential buildings in Hong Kong, I think the number of base stations is acceptable and reasonable. In order to provide quick and stable mobile services, the number of base stations can just meet the demand of users. Furthermore, the CA will also ask operators to reduce sending out unnecessary signals. Thus far, no on-site tests data are available to show that there are cases where radiation has gone beyond international levels. It is reported that Mr WONG has also tried to obtain data in buildings but the level does not seem to exceed the international safety level recognized by Hong Kong.

To my understanding, members of the public may request the CA to conduct on-site tests if they have queries about the radiation level emitted by mobile base stations. If test results show that the radiation level has not exceeded the safety standard, and yet people are not convinced by the results, then whom will they trust? We need to convince people with science and data. Restlessness of infants at night may be caused by many environmental factors. How can we totally ascribe the problem to mobile base stations on rooftops? I am afraid such remark is not scientific. What do doctors say about this? I hope Members can take these infants to see a doctor for proof. I am worried that the restlessness of infants may be caused by other factors rather than the base stations; otherwise we have failed to timely address the problem.

According to the data from the Office of the Communications Authority (OFCA), the take-up rate of Hong Kong mobile phone services has exceeded 236%, while the demand for high speed mobile broadband services has also witnessed a remarkable increase, with usage expanding from 763MB in December 2012 to 954MB in September 2013. With such an increase, it is really necessary for mobile network operators to enhance their infrastructure in order to meet public demand. The authorities are caught in a dilemma: on the one side, some people are really worried about the radiation emitted by base stations; but on the other side, a lot of people complain about poor reception of signals. Of course, the Government should provide more figures to relieve people's anxiety.

By the way, I would like to point out that mobile radio base stations installed in the same location as shown in Mr WONG's model may not necessarily emit stronger radiofrequency radiation. The reason is that mobile service operators may lower the radiofrequency power in order to enhance the service capacity of different standards. The lower the power, the smaller the transmission coverage and the lower the radiation level. Nonetheless, in view of spectrum shortage, telecommunications operators may reuse spectrum. This provides more incentives for operators to increase the density of coverage by increasing the number of base stations and reducing the coverage of a single base station. The level of radiofrequency radiation emitted by a base station is in turn reduced. In other words, colleagues need not worry about the increasing number of mobile base stations because it is common that the radiation level emitted by these base stations will decrease instead. In fact, the industry advises me that compared with one or two decades ago when mobile communications services such as analog were in service before digitization, the present radiation level is only one third or even lower of the level then.

President, I may have bored everyone here by saying too much technical stuff. I may not have time to talk about health issues which may be left to the next Member who speaks — Dr KWOK may talk about it. I would like to reserve some time to explain my justifications for amending Mr WONG's original motion. As mentioned just now, members of the public may not understand the impact of mobile base stations on residents. As such, consultation with residents before installation may not reflect the actual circumstances. I therefore suggest that owners' corporations or management companies of buildings should actively inform residents of matters relating to the installation of base stations. This serves to address the existing problems encountered by some owners and related to the building itself. The original motion proposes to impose regulation by legislation. But the applications submitted by operators are already subject to the vetting and approval of various departments. Therefore, there is no practical need to impose additional regulation as it cannot help address the problem.

President, I would like to reiterate that mobile base stations are not as scary as people imagine. Of course, if we are asked to list out the unfavourable justifications, we may have numerous. It sounds scary that the World Health Organization has classified mobile phone radiation as a Group 2B cancer-causing agent. But cancer-causing agents are also found in some food which we often consume, such as coffee and kimchi. Therefore, I hope we can deal with these problems in a rational manner. We should first understand the truth of the

matter before making judgment. I (*The buzzer sounded*) ... thank you, President.

Mr Charles Peter MOK moved the following amendment: (Translation)

"To delete "in recent years, the number of" after "That" and substitute with ", with the rising penetration rate of mobile communications services in Hong Kong, more and more people use mobile phone and data services, especially high speed mobile broadband services; in order to improve the quality of the relevant services, mobile service operators must identify suitable locations, such as rooftops and external walls of buildings, for installing"; to delete "installed by various telecommunications companies on the rooftops and external walls of buildings has substantially increased, and so far more than 32 000 mobile base stations have been installed in Hong Kong; the mobile base stations on quite a number of the rooftops of buildings are very dense, and information shows that 10 or so mobile base stations are installed on the rooftop of a building, with their locations very close to residential settlements, the most serious example being a mobile base station located less than three metres from residents' beds, causing residents to be exposed directly to the effects of radiofrequency radiation emitted by the mobile base station, with cases such as infants having abnormal restlessness and wailing, and adults having symptoms of tinnitus, headaches, insomnia and marked deterioration of concentration, etc.; besides, mobile base stations installed on the rooftops of buildings also hinder residents from escape when there is fire and impair building structure; and the practice of the Communications Authority ('CA') not consulting affected residents prior to granting approval to telecommunications companies to install mobile base stations has deprived residents of the right to information and the right to monitoring" after "('mobile base stations')"

and substitute with ", so as to enhance mobile network coverage and meet users' demand for mobile data usage and speed; yet, people are concerned that the signals from mobile base stations on rooftops of buildings may affect residents' health, and mobile base stations may also affect fire safety and building structure"; to delete "request CA to expeditiously review the vetting and approval procedure for installing mobile base stations to require that CA must consult affected residents beforehand when vetting and approving the relevant new applications or renewal applications, and formulate an implementation timetable for this new procedure" after "(1)" and substitute with

"encourage owners' corporations or management companies of buildings to actively inform residents of matters relating to the installation of mobile base stations in buildings"; to delete "expeditiously conduct a study on enacting legislation to regulate the installation of mobile base stations, including regulating the distance between mobile base station and residential settlement, the maximum number of mobile base stations installed in each building and the distance between one mobile base station and another, as well as devising" after "(2)" and substitute with "formulate a code of practice to require mobile service operators to alleviate the impact of mobile base stations on the public and buildings, and ensure the compliance of mobile base stations with the requirements of the relevant government departments and regulators, and devise"; to delete ", etc., and formulate a legislative timetable" after "about mobile base stations"; to delete "conduct a study on setting the non-ionizing radiation limits more stringent than those required by the International Commission on Non-Ionizing Radiation Protection" after "in Hong Kong," and substitute with "require that the radiation levels of mobile base stations installed by mobile service operators in public areas must be in compliance with the safety standards set out in the Code of Practice for the Protection of Workers and Members of the Public against Non-Ionizing Radiation Hazards from Radio Transmitting Equipment issued by the Office of the Communications Authority; (4) by making reference to other countries' relevant research findings and professional opinions, timely conduct a review of Hong Kong's safety standards of radiofrequency radiation"; to delete the original "(4)" and substitute with "(5)"; and to delete "request CA, the Department of Health and the Buildings Department" before "to compile records" and substitute with "set up an inter-departmental task force"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Charles Peter MOK to Mr WONG Kwok-hing's motion, be passed.

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, I thank Mr WONG Kwok-hing for moving the motion and Mr Charles Peter MOK for his amendment today. President, I have answered questions or responded to motions in this Council for a number of times, but I

have never delivered a speech that is very similar in content with the one given by a particular Member. Mr Charles Peter MOK's speech today contains a lot elements that I intend to mention. As such, I can substantially cut short my speech.

President, against the backdrop of a booming telecommunications market with advanced and well-established telecommunications infrastructure, a barrier-free communication has reinforced Hong Kong's position as a commercial and financial centre.

Radio base stations are one of the most basic components forming the mobile communications network. Mobile network operators have to install base stations throughout the territory in order to provide continuous communications services to the public. With the rising demand for mobile communications, operators need to install more base stations to extend and enhance mobile network coverage, and increase network capacity so as to meet public demand.

Before installing base stations, the operators must ensure that their proposed stations comply with the relevant requirements in respect of planning and land use restrictions, structural safety, radio interference, radiation safety, and so on, in addition to seeking the agreement of the owners or managers of the buildings concerned. The installation is certainly not being unregulated as described by Mr WONG Kwok-hing just now.

As Mr WONG Kwok-hing has raised particular concern about radiation safety of base stations in his motion, I would like to make a detailed response here.

First of all, we need to understand that radiofrequency electromagnetic (EM) field generated by base stations is a type of non-ionizing radiation, which is different from ionizing radiation such as X-ray and nuclear radiation. Ionizing radiation such as X-ray will emit great energy which will destroy the molecules that form the human body. Excessive X-ray may be hazardous to health. On the contrary, non-ionizing radiation generated by base stations has lower energy and cannot change the chemical properties of substances. It cannot cause harm by breaking chemical bonds in the human body.

Regarding the safety level of non-ionizing radiation (such as radiofrequency EM fields generated by base stations) exposed to the human body,

the International Commission on Non-Ionizing Radiation Protection (ICNIRP) has developed the Guidelines for Limiting Exposure to Time-varying Electric, Magnetic, and Electromagnetic Fields (ICNIRP Guidelines) based on scientific literature and related health risk assessments. The ICNIRP Guidelines are recognized by the World Health Organization (WHO). Apart from the ICNIRP Guidelines, another international organization, the Institute of Electrical and Electronics Engineers, has set in 2005 limits similar with the ICNIRP Guidelines.

The WHO recommends that national authorities should adopt the ICNIRP Guidelines, and considers that at present, there is insufficient evidence to suggest that EM fields exposure under the exposure limits set out in the ICNIRP Guidelines would cause any adverse health effects. At present, the ICNIRP limits or similar safety standards for non-ionizing radiation are generally adopted by some major economies with advanced developments (such as Germany, France, the United Kingdom, the United States, Canada, Australia and New Zealand) and those economies with high population density (such as Singapore, Japan and Korea).

In Hong Kong, the Communications Authority (CA), in consultation with the Department of Health, has adopted the non-ionizing radiation limits set by the ICNIRP as the criteria for approving the installation of base stations, and this is in line with the approach adopted by the aforesaid economies with advanced developments and high population density. Operators are also required to comply with the Code of Practice for the Protection of Workers and Members of the Public against Non-Ionizing Radiation Hazards from Radio Transmitting Equipment issued by the CA, so as to ensure that the radiation level at base stations complies with the non-ionizing limits stipulated by the ICNIRP.

In accordance with telecommunications licence conditions, operators must first obtain approval from the CA before bringing the base stations into use. In vetting and approving the applications, apart from the radiation level of individual base stations, the CA will also take into account the total radiation level of all base stations at a single location, so as to ensure that the total radiation level does not exceed the limits set by the ICNIRP. Within one month after the commissioning of such base stations, operators are also required to submit a testing report to the Office of the Communications Authority (OFCA), proving that the overall radiation level at the base stations complies with the safety requirements.

To safeguard public health, the OFCA will also take field measurement of radiation level at base stations. Over the past three years, in response to the enquiries of members of the public, the OFCA has conducted over 800 times of EM radiation level measurement in residential settlement throughout the territory and has not detected any non-compliance with the radiation safety standards. During the period from May to July 2013, the OFCA has taken the initiative to conduct random checks on approved base stations. Among the 600 plus cases, no non-compliance with the radiation safety standards has been detected. This reflects that the current vetting and approval procedure for installing base stations is effective in safeguarding residents from the hazards of EM radiation. To protect public health, the OFCA will continue to conduct random checks and field measurement in response to the enquires made by members of the public. Just now Mr WONG Kwok-hing mentioned the use of non-ionizing radiation testers. Our colleagues have, together with Mr WONG, jointly conducted field measurement of such non-ionizing radiation level and no case is found to have exceeded the standards.

Like other Honourable Members and the general public, while I enjoy continuous mobile communications services, I also attach great importance to the effects caused by base stations to public health. I thank Mr WONG Kwok-hing for moving the motion. Nonetheless, our discussion must be based on scientific evidence such as the ICNIRP's non-ionizing radiation limits adopted by Hong Kong and many countries which are also recognized by the WHO.

President, I will make more detailed reply after listening to other Members. Thank you, President.

DR KWOK KA-KI (in Cantonese): President, regarding the motion moved by Mr WONG Kwok-hing, I fully understand his well intention. As part of my work in the past, I was asked by some residents to help them negotiate with the Government for the removal of mobile radio base stations (mobile base stations) on the rooftop of buildings. However, as for the various symptoms mentioned in the original motion, as a medical practitioner, I have no choice but to offer some alternative views on each of the symptoms. Take for example the symptoms of tinnitus, headaches, insomnia and marked deterioration of concentration, and so on as mentioned in the motion. I have looked up various scientific researches and found that these symptoms are less likely related to the

impact of mobile base stations. Instead, they are caused by the use of mobile phones.

In fact, two years ago in Europe, a study on the possible correlation between the use of mobile phones and brain tumours was conducted, triggering much panic. Nevertheless, until recently, an overwhelming majority of medical studies have yet to find out any actual or solid impact of the use of mobile phones or the mobile base stations on physical health. As for mobile base stations, studies have been conducted in Switzerland as well as the United Kingdom's University of Essex. The two double-blind studies, in proper science terms, fail to establish any impact of the base stations' radiation on human bodies, including carcinogenic factors. Hence, if one simply claims that some symptoms are related to the base stations or the use of mobile phones, I am afraid this may be against the facts found in medical studies.

We are also duty-bound to explain to the public that the use of mobile phones, whatever the reasons ... Of course, we suggest that members of the public should avoid using mobile phones for a long time where unnecessary in order to steer away from unknown factors. However, the crux is that we still need a criterion to determine the need to install a mobile base station on the rooftop of a building. If we simply base our decision on approval or otherwise of the installation of base station on the symptoms bearing no scientific evidence, I will be a little worried. The reason is that if we accept accusations with no empirical scientific and medical evidence, it will be difficult to enforce the law or implement major government initiatives.

Is there no case in overseas countries concerning the controversy over the use of mobile phones or the installation of mobile base stations? That is not the situation. In 2009, in a case which happened in a small town in France, local telecommunications company Bouygues was involved in a controversy with residents over a giant mobile base station of 19 m, just imagine how high 19 m is, it is almost 60 ft high. At the time, the appellate court of Versailles agreed that the company had to remove the base station. In a case in Italy in 2012, the Supreme Court agreed that the base station might cause brain cancer. A similar case was also handled by an Indian court in May 2011.

Though I cite these cases, it does not mean that there is empirical evidence on the impact of the base station on people's health. As a matter of fact, these cases were related to the controversies between residents and telecommunications

companies over the installation of base stations. Hence, the Government or telecommunications companies have the responsibility and need to explain clearly to the public the actual impact of the installation. I believe that dedicating more time for explanation and negotiation can reduce the controversy among telecommunications companies, residents and the Government. The reason is that if accusations which may either be unclear or unfounded keep circulating among residents, it will make installation of the stations even more difficult in the future.

Although the Government or the industry has sound reasons, for example as we just said, more than 80 countries have adopted the ICNIRP standards as the basis to decide if the base stations have any impact, I still believe that the Government, especially the Electrical and Mechanical Services Department as well as telecommunications companies responsible for the installation work, should act more directly or proactively in explaining the practice to affected members of the public. Hence, we agree to the various procedures or studies mentioned in Mr WONG Kwok-hing's motion. In fact, the Government can also enhance public awareness of the impact on health through studies conducted by universities. Nevertheless, I cannot agree with Mr WONG's remark on the symptoms in his motion. Therefore, the Civic Party cannot support the original motion but will vote for Mr Charles Peter MOK's amendment.

I so submit. Thank you, President.

MR CHUNG KWOK-PAN (in Cantonese): President, my speech is going to be brief rather than long or sophisticated, basically because we are not experts. We have no idea about the impact of the radiation emitted from the mobile base stations. However, I absolutely agree to Dr KWOK Ka-ki's earlier analysis from a medical perspective.

When it comes to protecting the health of the general public, we must render support, but the arguments must be supported by scientific evidence. According to the figures provided by the Communications Authority (CA), the level of radiation emitted from mobile base stations should be low; as regards whether the radiation will affect our health, we actually have no evidence. As a matter of fact, it is believed that the level of radiation emitted by our mobile phones, which are within our reach all the time, may be higher than that emitted from the base stations. Furthermore, as we use computers every day, is it

possible that symptoms, such as headache as mentioned by Mr WONG Kwok-hing earlier, are caused by computers instead of mobile base stations? We really do not have a clue.

Moreover, it is pointed out in a number of reports that products like mobile phones and computers may affect our health, but there is neither solid evidence nor statistics to prove that a wide range of symptoms are attributed to such products. Hence, if we arbitrarily claim that mobile base stations affect health, it has to be well supported by more scientific data, especially given the high mobile phone usage rate in Hong Kong. Apart from 3G and 4G, 5G services are set to roll out, so installing more mobile base stations may be required for meeting the future livelihood needs of Hong Kong people. If network data coverage is not extensive enough, many complaints may be lodged and I believe the number of complains may exceed the current 350 received by the CA.

Therefore, without knowing clearly whether sound scientific data and evidence are available to prove the health effects caused by base stations, we can only refer to the international standard, and the international standard indicates the absence of such impact. Under such circumstance, if we rashly formulate a standard better than the international one, are we trying to surpass the United Kingdom and catch up with the United States? I would also like to ask the Secretary if there is actually any authoritative expert in Hong Kong who can set up a standard higher than the international one.

Hence, as the original motion's claim that mobile base stations affect physical health is not well supported by adequate reasons, it fails to win the support of the Liberal Party. The Liberal Party in particular disagrees to point (3) of the original motion, which states that the Administration needs to conduct a study on setting the limits more stringent than those required by the International Commission on Non-Ionizing Radiation Protection. As I pointed out just now, do we have experts in this field to take up this task? Moreover, at what level should the limit be set in order to fit in or meet Mr WONG Kwok-hing's standard? A yardstick in this respect is just non-existent.

As for the amendment of Mr Charles Peter MOK, who suggests that owners' corporations or management companies of buildings should be encouraged to actively inform residents of matters relating to the installation of mobile base stations in buildings, and that a code of practice be formulated, and so on, we are of the view that they are more appropriate, reasonable and pertinent

and will not disrupt the balance between public safety and the provision of quality telecommunications services. Hence, we will vote for it.

Thank you, President. I so submit.

MR CHAN CHI-CHUEN (in Cantonese): President, science is by no means absolute. If science was absolute and could prove everything, today's debate would have been unnecessary, and the Government would have naturally implemented measures according to the standards. Frequent use of mobile phones may lead to problems, and frequent use of computers may affect us as well. The point is, we can opt to chat less on the phone, avoid putting the mobile phone in the pocket, or use computer less. However, if mobile radio base stations (mobile base stations) are installed on the rooftop of a building and you live in the vicinity, what choices are available to you? You have no choice but move out.

I thank Mr WONG Kwok-hing for moving the motion on "Regulating mobile radio base stations to protect public health". Nevertheless, the original motion which contains more than 500 characters in the Chinese text is amended by Mr Charles Peter MOK and trimmed to less than 100 words. Mr Charles Peter MOK has virtually deleted all the contents of the original motion except the last point, that is, requesting the Communications Authority (CA), the Department of Health and the Buildings Department to compile records and statistics on cases of mobile base stations affecting residents, and providing solutions to the residents who suffer nuisance.

Mr MOK should actually vote against Mr WONG Kwok-hing's motion and then propose another motion. Mr MOK has written a letter to all Members of this Council regarding his amendment, where in paragraph one he acknowledges the need to address the public's health concern surrounding the installation of telecommunications equipment; but at the same time, there is also a need to consider the public's surging demand for mobile services. He also explains in the letter that as 2G, 3G and 4G are currently run through multiple stations on a single place, the number of mobile base stations as suggested by Mr WONG Kwok-hing, that is 30 000 or so, should actually be divided by three, hence the actual number should be around 10 000 or so. Does Mr MOK hint that we actually have much room for building more mobile base stations?

In addressing residents' worries over radiation, does the Administration think that as long as the level of radiation meets the safety standards stated in the CA's relevant code, any worry of the public is regarded as over the top? If members of the public really have physical symptoms and are worried, should they stop spelling them out? Should we say that the remark on radiation harm is actually not research-supported, and thus unscientific? In fact, what Mr WONG Kwok-hing proposes in the first sentence of his original motion is to review the procedure and consult affected residents before the installation of stations. Yet, Mr Charles Peter MOK amends that sentence to the effect that owners' corporations are asked to inform residents. What will happen after residents are informed? Does he suggest that residents should have the common knowledge to realize that there is neither problem nor danger, hence the matter is settled after they are informed?

Some say that electromagnetic field-related allergies are purely patients' description of the symptoms, and headache, nausea, dizziness and fever may not be related to exposure to the electromagnetic field. They may just be ordinary urban diseases. Therefore, some psychiatrists note that the impact of electromagnetic waves from mobile phones is still classified as uncertain according to the World Health Organization (WHO)'s relevant safety standards, and further research is needed. If residents living near the stations develop such symptoms, they should do more exercises and breathe deeply more often to see if their worries can be addressed. I think the residents concerned should have tried such methods, but they remain worried.

Some remark that electromagnetic field-related allergies are actually ascribed to an anti-placebo effect. In other words, patients do not believe that the stations are harmless, and such belief may have triggered and aggravated the symptoms. Internet rumors have it that Gro BRUNTLAND, former Prime Minister of Norway and former WHO Secretary-General, has openly admitted that she has electromagnetic field-related allergies. She has difficulty in using mobile phone and has to access the Internet through LAN-connected computers. Nevertheless, you may argue that it is more of psychology. In overseas places, those claiming to have electromagnetic field-related allergies not only have to avoid using mobile phone, but also avoid watching television for too long and using computers. When going out, they even have to wear special hairnets to insulate themselves from the electromagnetic fields around them. Yet, in the eyes of our telecommunications operators, the Government or Mr MOK, all these may sound ridiculous.

While Mr MOK also thinks that a timely review of Hong Kong's safety standards of radiofrequency radiation is needed, with his professional vision, even after he has heard of the cases recounted by Mr WONG — of course, all these cases have been deleted in his amendment — he maintains that as long as the mobile base stations meet the safety standards widely accepted internationally for the time being, that will be sufficient. While Mr WONG's original motion urges for setting more stringent radiation limits, Mr MOK thinks otherwise, maybe Mr MOK's prime concern is to protect the interests of the industry.

However, according to a media report, the Department of Health responded to complaints lodged by residents near the mobile base stations by pointing out that the safety standards currently adopted for the stations might not be applicable to non-general persons. Who are those non-general persons? They refer to children, chronically ill persons, the elderly or those sensitive to electromagnetic fields. If the said report is true, is the Department of Health too sensitive? Did it act too rashly by making a response based on the research reports published in the latest international academic journals, at the expense of the standards mentioned by Mr MOK, namely those set by the International Commission on Non-Ionizing Radiation Protection? In fact, Mr MOK appears to have chosen the practice of the British Government from among the world to set the focus of audit on whether the stations are designed in compliance with the requirement where the risk is kept at reasonably and feasibly low ranges. That is, they have to show that the design concerned meets the stipulations of the law to reduce the risk within reasonable and feasible ranges. Under such practice, owners of the stations are actually expected to take the initiative to adopt all reasonable, practical and feasible measures to reduce the risk of electromagnetic fields, and make a balance of the overall interests on a pro rata basis. Nevertheless, given the various potential factors, such risk assessment is actually not research-proven, and its ability to avoid risks effectively is in doubt.

Furthermore, as for electromagnetic fields, a number of places in Europe or the United States have adopted the principle of precaution, that is, statutes are enacted under a principle where risks are to be cautiously avoided. Under the principle of precaution, whenever there are signs of a possibly undesirable impact, despite the effect of which is yet to be ascertained, it is still assumed that the risk may be far greater when measures are not taken than when taken. The principle of precaution shifts the burden of proof from those who doubt there is a risk to those who underestimate it. In other words, whenever there is a potential crisis involving public health and human lives albeit inadequate scientific

evidence, most consumers will find it intolerable. It is also shared in the society that preventive measures are preferred to blaming those who doubt there is a risk by saying that they are over-worried, that scientific evidence is absolutely reliable, and that those putting this forward for discussion are suspicious.

I hope that the SAR Government may also adopt such principle of precaution.

DR CHIANG LAI-WAN (in Cantonese): President, I wish to thank Mr WONG Kwok-hing for moving again the motion concerning whether radiofrequency radiation emitted by mobile radio base stations (mobile base stations) will affect public health.

After reviewing the past record of oral or written questions, I found that many Members are very concerned about this subject matter or similar issues. Ms Starry LEE raised a relevant question in 2009; Mr WONG Kwok-hing raised a relevant question in June 2012; Dr CHIANG Lai-wan raised a written question on health hazards of electromagnetic radiation in December 2012; Mr SIN Chung-kai raised a relevant question in June 2013; Mr CHAN Han-pan also raised a relevant question in July 2013. Why do so many Members show concern about this issue? It is because we cannot wait until something has happened to show our concern. When there are signs and data indicating that something is about to happen, or certain risk is imminent, we have to point out the problem in view of the principle that "An ounce of prevention is worth a pound of cure", so that the authorities may take note of the problem, and consider what preventive measures should be put in place, or how to ensure that the public can enjoy a wider scope of the right to know. When I speak of the right to know, I mean it does not matter whether radiofrequency is hazardous to health or not, we should take this opportunity to educate the public and let more people learn about it.

Just now a Member said that owing to insufficient scientific evidence, it was impossible to prove the theory. Nevertheless, I think we should understand that in 2011, the International Agency for Research on Cancer classified radiofrequency electromagnetic fields as possibly carcinogenic to humans (Group B). By possibly carcinogenic to humans, it means that it is carcinogenic, right? Thus one cannot say that there is no scientific proof. As we all know, the Supreme Court of Italy had once ruled that mobile phone radiation might cause cancer in view that mobile phones might cause facial tumours.

As we are exposed to various types of radiofrequency electromagnetic radiations, of course, I also agree that if you have a microwave oven at home, and assume that the isopleth radiation of the microwave oven is 1, then the radiation level of your home can only be 1. However, if you have several microwave ovens and televisions at home, it may cause a multiple effect and the cumulative effect of radiation would be very serious.

As we all know, there are more than 30 000 mobile base stations in Hong Kong. Where are they? In fact, according to the complaint we have received, many mobile base stations are installed on rooftops. However, is it necessary to erect so many mobile base stations? The current situation is that PCCW installed one station, CSL another, and SmarTone another, all of them are installed in the same place. Is it possible that they share one station?

Moreover, from this photo, we can find that there are antennae of four or five mobile base stations, and there are four air conditioners in one unit. Although we cannot get inside the unit, we should know what is happening there. An owners' corporation indicates that the unit has been converted into a plant room. Is this a reflection that there is a lack of monitoring by the relevant government departments? Plant rooms should be set up in industrial buildings, not residential buildings, right? In fact, only minimum monitoring is required.

Of course, many members of the public have reported such incident to various government departments. The Buildings Department admitted that illegal structures were involved, but since there was no immediate hazard, no actions would be taken. The Communications Authority indicated that it was only responsible for matters concerning signal reception; the Department of Health said that there was no evidence to substantiate that such signals would be hazardous to public health. President, as you may also be aware, to prove that such signals is hazardous to public health, many tests may have to be carried out, and many people may have to be killed before such proof can be substantiated. Since so many Members are concerned about this issue, I hope the Government would also attach great importance to this matter, because the public only ask for the right to know. By the right to know, I mean that each member of the public has the right to know the location of mobile base stations in the proximity of his residence; that each member of the public has the right to know the potential risk of these mobile base stations on his health; and that each member of the public has the right to be concerned about his own health after weighing all the factors concerned.

President, I hope the Government can carry out several tasks, for example, since the research capabilities of several local universities are rather high, the Government should support these universities to conduct some studies. Such studies will be beneficial to Hong Kong, the world as well as the earth. Moreover, I also hope that the Government will enhance the regulation by stating in the guideline the maximum number of mobile base stations that can be installed in one single building, so as to avoid an over-concentration of mobile base stations. As the environment of Hong Kong is rather special, the distance between mobile base stations are not that far apart as in the case of foreign countries. There is an over-concentration of mobile base stations in Hong Kong, therefore (*The buzzer sounded*) ...

PRESIDENT (in Cantonese): Dr CHIANG, your speaking time is up.

DR CHIANG LAI-WAN (in Cantonese): I so submit, thank you, President.

MR SIN CHUNG-KAI (in Cantonese): President, first of all, I wish to thank Mr WONG Kwok-hing for moving this motion. In fact, this is an issue that many people are greatly concerned about. District Council members have frequently received similar complaints from residents, but very often, after such complaints have been forwarded to the Communications Authority (CA), the residents have not received any adequate or satisfactory response.

However, scientific evidence is required for all matters. With regards to this motion, in particularly the preamble part, actually the CA and Mr Charles Peter MOK have provided a lot of information to us, telling us why we need so many mobile base stations. In fact, Hong Kong has to support more than 7 million people, and according to government statistics, the number of registered users for mobile phone and disposable phone can reach more than 10 million, which is a vast number. A great number of signal reception station or mobile base stations are needed to relay the signals.

Actually, Hong Kong citizens and Honourable Members who are now in attendance may have more than one mobile phone, some people, like Mr Charles Peter MOK, may have three phones, thus the demand for mobile phone signal is rather great. I believe this problem will become more and more serious as future

mobile phone usage will only increase, but not decrease, and we will also have mobile television in future. Even for mobile phones, as 4G network gets more popular, I believe its reception quality will improve, and the number of users and data flow will increase as well.

President, in dealing with this problem, I think the CA should provide more explanations to the public in the form of pamphlets and scientific exposition through the social media, so as to allay their worries. In this way, the number of complaints will decrease as we have to rely on scientific statistics but not feelings in lodging complaints.

Regarding scientific data, as mentioned by Dr KWOK Ka-ki, the CA or the Department of Health, the current radiation levels have not exceeded the standard level. Even though in terms of actual figures and subjective standards, the radiation levels have not exceeded the standard level, it is not so regarded in the psychological sense. This is well evident. The general public, in particular small property owners or tenants, are greatly worried if they see mobile base stations in densely populated areas, as mentioned by Dr CHIANG Lai-wan just now.

However, can the Secretary consider making certain improvement in the process? For example, we have just discussed the issue of guesthouse licensing today, even though the lease or land title has stated that the building should be used for residential purpose and no guesthouses should be permitted, the licensing authority did not consider such terms and allow the operation of guesthouses in the building. Is this a violation of the land use? The Secretary should consider adopting a more serious approach in handling the manner, and there should be better co-ordination among government departments. Although there are numerous government departments, for the general public, there is only one department. In handling extension or installation works carried out on lands or in buildings, though the relevant requirements have been complied with, should the Government or the CA also consult other departments on the premise that no health standard is violated?

The Democratic Party also supports the amendment of Mr Charles Peter MOK, as his amendment strikes a balance between the concerns of residents and tenants, as well as the demands of users. It is likely that users or members of the public who lodge the complaints are the residents, they may file complaints to the CA or telecommunication service providers for not being able to receive data or

telephone signals at a certain location. The telecommunication service provider may then install some signal repeaters, which is the source of concern for the general public. A psychological problem should then be solved, that is, how to address the concern of the public.

As I have said earlier, the Government should explain to the public, not merely through this motion debate, but also through social media, Announcement of Public Interest and education. Has the Government provided huge amount of subsidy to Radio Television Hong Kong (RTHK) ... speaking of RTHK, as the programmes broadcast on Channel 31 are devoid of contents, the CA should sponsor some programmes to be broadcast on Channel 31 to explain to the public such problems. This is also one of the solutions.

I hope the public or users can use their mobile phones and receive data. This is also very important, especially for the younger generation. Nowadays, most people do not have fixed-line phones, they only have mobile phones. For this reason, telecommunication has become a necessity for emergency purpose, and so on. We will support this amendment.

MR KENNETH LEUNG (in Cantonese): President, I wish to thank Mr WONG Kwok-hing for moving the motion on "Regulating mobile radio base stations to protect public health".

According to the statistics of the Communications Authority (CA), the mobile subscriber penetration rate was 236%, and the number of mobile subscribers as at September 2013 had exceeded 17 million. In other words, each person in Hong Kong has two mobile phones on average; of course Mr Charles Peter MOK said just now that it was likely that each person might have as many as three mobile phones.

With an increasing popularization of mobile communication, more and more people use mobile phones or tablet PCs to receive information, thus the demand for mobile data has drastically increased. It is envisaged that the number of mobile radio base stations (mobile base stations) in Hong Kong will increase. This is an irresistible general trend, and it is also an inevitable phenomenon in Hong Kong as an international financial hub and a city of economic activities.

Without doubt, Mr WONG Kwok-hing moves this motion for he foresees that the increasing number of mobile base stations installed in the community has given rise to some practical or psychological problems. In recent years, many reports in Hong Kong have pointed out that radiofrequency radiation generated by mobile base stations installed in certain areas have caused health problems to local residents, but these were just reports. As regards symptoms of tinnitus, insomnia or even various kinds of cancers that may be resulted, the situation mentioned by these reports are not limited to mobile base stations. In fact, reports in Hong Kong and the Mainland have also indicated that under various circumstances, electron wave will constantly emitted and affect human body. Such circumstances include exposure to high voltage cable, living in close proximity to power cables with constant current movement, or even pressing the mobile phone against the ear, using microwave oven to reheat food, and so on. However, in scientific terms, to what extent will the so-called radiation affect our health? Actually, there is not definite conclusion.

I fully understand the worries of the people about the effect of mobile base stations on their health, but at the same time, we should have a clear picture about the direct relationship between mobile base stations and health hazards; we should find out the scientific evidence and make the final conclusion based on facts. According to a paper issued by the World Health Organization (WHO) on 20 September 2013, the level of radiofrequency radiation received by a person pressing the mobile phone against his ear was generally 1 000 times higher than the radiation emitted by mobile base stations. The same paper also pointed out that the focus of WHO's future study was the health effect caused by use of mobile phone for extended period of time. As a Legislative Council Member, I often see many colleagues use mobile phones very frequently. I do not use mobile phone that often. However, if it is said that mobile base stations will emit radiation and thus we should enhance monitoring, should we Members use mobile phones less often?

At present, the installation of mobile base stations in Hong Kong should comply with the non-ionizing radiation limit proposed by the International Commission on Non-Ionizing Radiation Protection (ICNIRP), which are the criteria for approving the application. Some people are of the view that Hong Kong should adopt a more stringent standard, but is that actually necessary? The standard of the ICNIRP has worldwide recognition, including the WHO. It is a set of standard drawn up by various scientific research institutes from different countries and has been adopted by various places in the world. If Hong

Kong is to formulate a standard, it can only be drawn up by a few local research institutes in our universities.

At present, a lot of people may have some degree of misunderstanding about the health effect of radiation generated by mobile base stations, they may even feel panic. Moreover, as the Government fails to explain clearly to the public about the relevant knowledge, more and more residents are greatly worried, and being uncertain as to what to believe, they read some press reports and cannot get some subjective, holistic and scientific information. This has built up an atmosphere of anxiety and then panic in society. For that reason, as Mr SIN Chung-kai said just now, I hope the Government can release more information in this regard via social media and RTHK channels.

Two days ago, that is, on 20 January, a newspaper report quoted from the Department of Health that "as to mobile base stations, the current safety standard may not necessary be applicable to children, chronic patients, elderly and people who are allergic to electromagnetic fields". If this statement is accurate, how come the Government does not make the relevant information easily accessible to the general public? President, I consider that the Government is absolutely duty-bound to explain clearly to the public whether the installation of mobile base stations and its radiofrequency radiation will affect public health.

Therefore, after reading the original motion and the amendments, I will support Mr Charles Peter MOK's amendment, as I consider that it strikes a nice balance between health and economic benefits.

President, I so submit.

MR LEUNG CHE-CHEUNG (in Cantonese): President, Mr WONG Kwok-hing moved this motion on "Regulating mobile radio base stations to protect public health" for debate. This is a good subject matter for debate as residents and telecommunication companies have divergent views.

Some local residents have frequently reflected to me the relevant problems, and I wish to mention two examples to draw your attention. The first example is about a house in a village. The house is not used for self-occupation, but rented for the installation of several mobile base stations on its rooftop. The neighbours are of course furious for they are victimized while owner of the house

will collect the rent. As such, the neighbours filed their complaints to the Communications Authority (CA), but they were later told that the mobile base stations were safe and in compliance with the standards. The reply of the CA cannot address their concerns. They can only watch the owner keeps on collecting the monthly rents; they think that the Government cannot do anything to help. They are the victims.

Another example takes place in my housing estate. The owners' corporation (OC) considered that it was profitable to let out some space for the installation of mobile base stations, and could collect a monthly rental of \$20,000 to \$30,000. Therefore it rented some space to a telecommunication company. The mobile base stations were set up on the third, no, fourth floor. Residents living on the fourth floor had raised strong objection, claiming that sometimes they had symptoms of tinnitus, dizziness in bed and had no mood to work during day time. For that reason, they protested against the installation of mobile base stations and a lot of residents supported them. As a result, the OC finally stopped renting out the place for installation of mobile base stations as it did not want to affect people's health just for getting some money.

After reading the press report, I find it odd that the Housing Department seems to trust the standards drawn up by the CA and considers those standards very safe, it thus permits all public housing estates to install mobile base stations on their rooftops and thereby collects a revenue of almost \$100 million each year. I do not know if the Housing Department has spent the \$100 million for conversion or renovation works, or for improving the living environment of residents. Public housing tenants who worry about their health being jeopardized have no channel to air their grievances. People do not know if the standards drawn up by the Government are safe.

I have read a press report dated 17 June 2013. It was reported that two mobile base stations were installed on the rooftop of one of the campus buildings in the RMIT University in Melbourne, and later seven staff working in the building were confirmed to have brain cancer (most of them were working on the upper floors). After the incident, the University closed down two classrooms in question and prohibited staff to work there. In fact, there are overseas incidents confirming that similar mobile base stations could cause health problems, and such problems are serious, such as brain cancer.

I wish to talk about the existing standards adopted by the CA, even though I do not have much knowledge in this respect. According to the data provided by the CA, the non-ionizing radiation limits as recommended by the ICNIRP are adopted as the radiation safety standard, the time-varying fields limit is 41.3V/m and the upper limit is 61.0V/m. While I have limited knowledge in this subject, I learn from information of other sources that compared with other places, the limits adopted by Hong Kong are not the most stringent international standard, but in the middle range. When compared with the standard adopted in the Mainland, our requirements are 10 times more relaxed; and when compared with Australia, the ratio is about 250:200. Therefore, the standards drawn up by the CA are not the most stringent.

At present, each person in Hong Kong has 2.3 mobile phones on average, their living space is small and they are surrounded by mobile base stations. We do not know the number of mobile base stations installed on each street, thus how well are we protected by the relevant standard?*(The buzzer sounded)* ... therefore I consider that the motion ...

PRESIDENT (in Cantonese): Mr LEUNG, your speaking time is up.

MR LEUNG CHE-CHEUNG (in Cantonese): ... the motion moved by Mr WONG Kwok-hing is reasonable. Thank you.

MR KWOK WAI-KEUNG (in Cantonese): President, Hong Kong's well-developed mobile network facilitates the exchange of information, and is one of the keys contributing to the territory's status as an international financial centre.

Mobile services are getting increasingly popular in Hong Kong. According to the statistics from the Communications Authority (CA), as of September 2013, the per capita mobile subscriber penetration rate stood at 237%. In other words, every Hong Kong person has at least two phone cards or even two mobile phones on average. Given the huge market and the demand, telecommunications companies weigh in and pour in resources for the installation of more mobile radio base stations (mobile base stations) with a view to

enhancing their competitiveness through the provision of quality mobile services. That is the problem arising from a market-oriented situation.

However, amid the pursuit of speedier mobile connection and unreserved circulation of information, are members of the public actually aware that their safety and health are being compromised without being known?

Putting aside the scientific proof and evidence mentioned by Honourable colleagues earlier, I would like to talk about feng shui, a popular topic among Chinese people. One always says, "With the feng shui ornaments of the opposite flat facing ours, I had better fire back or lodge complaint". It is not our intention in this Council to tell people to believe in feng shui, which is a kind of "believe it or not" issue, but the point is that such circumstance has a direct bearing on one's psychological well-being. What I mean is that apart from physical harm or health issues, people's psychological well-being is clearly under a direct threat, since there is always a mobile base station haunting them every day, despite its ability to inflict direct harm still being uncertain. This point alone is worth the concern of Members and the Government.

Let me return to the subject. The Hong Kong Federation of Trade Unions (FTU) conducted risk assessment on the radiofrequency radiation emitted from mobile base stations. It was found that some mobile base stations were very close to residential settlements. In the worst case, a station was less than 3 m away from a bed. Moreover, different residents being interviewed concurred that they developed tinnitus, headaches, nausea and even deteriorating quality of sleep because of the stations.

With the assistance of the FTU, the CA conducted a test at a resident's home. The CA finally noted that according to the current standards, the level of radiation did not exceed the limits. Nevertheless, does meeting the standards mean no health implication? Or does it mean the implication is so little that it is negligible? The Government may consider it negligible, but it may mean a lot to members of the public, because livelihood matters are by no means trivial. Also, the people concerned are the only ones directly affected, and only they will know how much they are affected by radiofrequency radiation.

Earlier, media reports have it that the International Commission on Non-Ionizing Radiation Protection's standards currently adopted by Hong Kong are very relaxed, or nearly 100 times more relaxed than China's. Hence, the fact

is that some countries have set more stringent standards of their own, just that Hong Kong has not adopted such standards.

Despite the lack of scientific studies to show any direct impact of radiofrequency radiation on health for the time being, the fact that some members of the public have developed adverse effects in relation to mobile base stations is unarguably true. If the number of complaints is negligible, we may argue that they are just individual cases, but it appears not to be so. Many in the neighbourhood have reflected to me that they neither eat nor sleep well since the installation of the mobile base stations. Does the Administration still turn a blind eye and do nothing?

The current standards are extensively adopted overseas. Yet, as Hong Kong has high concentration of buildings and densely populated, the number of affected population within an area in Hong Kong is significantly larger than that in other countries. Given the huge discrepancy between Hong Kong and other places, the Government needs to revise the current radiation limits according to the territory's circumstances, rather than just follow the overseas standards.

Apart from health risks, mobile base stations also pose safety risks to residents of buildings. Simply put, if mobile base stations are installed on the rooftop of a building, but such installation has not been projected in the design of the building, where should residents escape when there is a fire? Residents living on the top floor should go to the rooftop for escape, but if the rooftop is filled up with mobile base stations or all the space there is so occupied, will their chance of escape be affected?

Mr Charles Peter MOK also mentioned that there are 10 000 or so points where mobile base stations are installed. In fact, what he has not included in the figure is the number of units installed within the stations. Several units may have been installed at a single point, so the actual number of units installed may be as high as 32 000, according to the figure provided by the CA.

In addition, apart from fire escape, mobile base stations also involve the issue of location. I have received a complaint about the installation of such stations within residential units. In such cases, telecommunications companies have to rent residential units for station installation due to the lack of rooftop space, so residents living above, below or near the units concerned will be

affected. The use of electricity at such stations generates electric waves, noise and even vibration, so it is by no means odd if one's sleep is affected.

In my opinion, as Hong Kong is an international metropolis, a well-developed telecommunications network is definitely conducive to societal advancement and economic development. However, the Government is also duty-bound to protect public health while pursuing development, instead of sacrificing it as a heavy price to pay.

I so submit. Thank you, President.

MR ALBERT CHAN (in Cantonese): President, Hong Kong is named the freest market for very good reasons. The reason is that the Government not only allows Hong Kong people to be enslaved by plutocrats, but also ignores their health and personal safety. From the design of relevant communications equipment to the policy requirements, we can observe such a trait.

President, we may review the various studies conducted in other countries. In fact, research findings in this respect have kept coming out over the past decade. In a 2003 study from France, it is pointed out that mobile base stations should at least be 300 m away from residential settlements. A 2002 study from Spain notes that if a station is near residential settlements, residents may develop depression, somniphobia, attention deficit, fatigue and cardiovascular diseases. A 2004 study from Israel indicates that if a station is located within 350 m, the incidence of cancer will be four times higher than when one is located within 350 m, and even 10 times higher for women within 300 m. A 2004 study from Germany indicates that the incidence of cancer is higher for a station located within 400 m. A United Kingdom study also points out that the possibility of developing hypertension, cancer and cerebral hemorrhage is higher within 400 m. Another study also indicates that a quarter of staff members of a special school are diagnosed with tumors, and most of the staff members have developed various health problems. These are studies conducted over the past decade or exactly a decade ago. I call for academics in Hong Kong to take a look at the issues and conduct studies in this respect. The fact that they have received government subvention should not be the reason for not conducting studies displeasing to the Government.

President, about a decade ago, there was a case in the district I served where a developer had installed 10 or so mobile base stations on the top floor of a tall building. Six months following the installation, three women from among eight households were diagnosed with breast cancer. I had informed the Department of Health of this, but its reply was that such cases were not scientifically substantiated. However, numerous overseas studies have substantiated the problem.

Recently, a friend of mine had moved his plant to the top floor of an industrial building. He got lung cancer six months after the removal, and his office was located less than 20 m away from such station. These cases are by no means rare. Every Member as well as member of the public may have relatives and friends having similar cases, but unfortunately, it is rare to note any remark in this respect from academics in Hong Kong, especially those doing health related studies, whereas the Government is just being indifferent.

It is pointed out in numerous overseas studies that such stations should be 400 m away from residential areas in order to be safe, and there are even policy requirements on this in some places. In Hong Kong, many of these stations on the rooftop or ground floor are just dozens of or 10 m or so away from residential areas. Some may be less than 20 m away from a resident's bed. Residents are exposed to such stations for nearly 20 hours a day, yet the Government is totally indifferent. Hence, it is time for Hong Kong people to voice out their fury. They should not continue to let these plutocrats trifle with their lives.

We have made reference to some experience in the past. Many years ago, no one was aware of the health implications of high-voltage cables. It was then pointed out in numerous overseas studies that pregnant women living under high-voltage cables were several times or as high as six to seven times in some cases more likely to have problems than those living away from such cables. For example, children could be one time or even two to three times more likely to have various diseases, especially cancers. In countries like Japan, the United Kingdom's Oxford or Sweden, studies in this respect have been carried out, but our Government does not identify it as a problem. It only alleges that everything is fully in line with legal standards and existing policy requirements. Yet, the problem is that the current policies do not take into account the findings from convincing studies overseas.

Of course, it is difficult to fully show that a problem is predicated upon a certain extent of a factor, since everyone has different body structure and level of endurance. As in the case of noise, under an aircraft noise of 70 decibels, some may sleep well, some may suffer from insomnia and have to take sleeping pills, while some may need to consult psychiatrists, because everyone has different perception of noise. Similarly, everyone may react differently to radiation owing to the differences in how their bodies function.

Therefore, President, with all these problems, in view of Mr WONG Kwok-hing's rare move of moving such a meaningful motion and casting such doubts today, I hope that the royalists can pursue thoroughly to the end the Government's actions which do not take people's health and safety into consideration. Hong Kong has to make reference to overseas examples to locate all mobile base stations at least 300 to 400 m away from residential settlements. Otherwise, Members have to keep resisting it to the end or even call for a removal of all telecommunications networks for the sake of protecting people's safety and health. Thank you, President.

DR ELIZABETH QUAT (in Cantonese): President, the issue of mobile base station is actually very complicated, if too many base stations are installed, the public may be concerned about the impact of radiation on health; but if there are no base stations, it would be very inconvenient to the public as far as communications is concerned. For that reason, the role of the Government is of utmost importance, it should perform its monitoring and gate-keeping roles. On the other hand, it should make an effort to explain to the public in order to allay their worries.

In Hong Kong, telecommunication technology is very advanced and the use of mobile phone is highly popular. In order to facilitate the public to use telecommunication service in a more convenient way, telecommunication service providers have to install base stations all over the territory and roll out their networks extensively, from 2G, 3G to 4G. As the network of each generation needs an independent mobile base station, such stations can be found in many buildings and structures in the urban areas.

Mobile base stations will emit radiofrequency field, which is a kind of non-ionizing radiation different from ionizing radiations, such as X-ray and Gamma ray, with lower energy and less likely to cause changes in the chemical

properties of biological substances. There is no convincing scientific evidence to suggest that radiations emitted by mobile base stations will have health impacts.

As to the radiation safety standard, Hong Kong adopted the limits recommended by the International Commission on Non-Ionizing Radiation Protection (ICNIRP) as the criteria for approving the installation of mobile base stations. The ICNIRP is an independent scientific commission, and the non-ionizing radiation limits drawn up by it have been recognized by the World Health Organization (WHO). The United States, Germany, France, Korea and many other advanced countries also adopt similar safety standards. As pointed out by the WHO, there is no convincing scientific evidence to suggest that mobile base stations in compliance with the ICNIRP limits will cause adverse health impacts. The Hong Kong Government is of the view that as long as the ICNIRP standard is met, it is very unlikely that radiation emitted by mobile base stations will affect the health of the public. Unfortunately, owing to inadequate publicity, the public know very little about the abovementioned international standards.

Nevertheless, we also wish to ask, can compliance with the safety standard allay the public concerns? From today's motion, we know that the answer is in the negative. Many members of the public are worried about the impact, and some of them have complained to us that the great number of mobile base stations in the vicinity of their residence have affected their health. They suspect that the radiation emitted have caused them to suffer from symptoms such as insomnia, headaches, tinnitus, and so on.

In fact, such worries are not without ground. While there is no convincing scientific evidence to prove that radiations emitted by mobile base stations will have adverse health impacts, there is also no evidence to prove that such radiation is totally harmless. A sickness called electromagnetic hypersensitivity will induce symptoms such as headaches, tinnitus, or even cataract and infertility problems, and the culprit is electromagnetic radiation. We should note that apart from mobile phones, many household apparatus will also emit electromagnetic radiation, such as television and radio which we very often get in contact with. In 2011, a working group under the WHO formed by cancer experts recommended that mobile phone radiation should be classified as "possibly carcinogenic" under Group 2B, and the risk was on a par with lead, chloroform and pesticides.

Therefore, it is totally reasonable for the public to worry that the mobile base stations in their vicinity will affect their health. It is necessary for the Government to address these concerns, instead of simply stating that "there is no sufficient evidence to prove such effects" each time Members raise such question in the Legislative Council.

First of all, the Government should enhance the transparency of the base stations by allowing the public to know the number of base stations installed in their vicinity, the level of radiation emitted, as well as the likely effect. In future, if telecommunication service providers intends to install extra base stations close to residential areas, they should be required to notify the residents in advance so as to listen to their views and allay their concerns.

In fact, the Office of the Communications Authority has issued a Code of Practice for the Protection of Workers and Members of Public Against Non-Ionizing Radiation Hazards from Radio Transmitting Equipment (Code of Practice). The Code of Practice sets out in details the limits and safety standards on radiation emitted by radio transmitting equipment. The authorities should ensure that operators comply with the safety standards and Code of Practice when installing base stations. They should also conduct regular on-site inspection to ensure the safety and compliance of such installations. The Government should be resolute in taking stringent actions against offenders.

Furthermore, on the premise of not causing any environmental hazard, the authorities should allocate sites in mountainous area to telecommunication service providers for installing such transmission stations, so as to minimize the need of installing such stations in residential areas and alleviate the impacts on residents and address their concerns.

(THE PRESIDENT'S DEPUTY, Mr Andrew LEUNG, took the Chair)

Moreover, there are divergent views on the effect of mobile phones and mobile base stations on human body. While some say there are adverse effects, some disagree. The Government should consider promoting the academic sector to study the relevant issue. Such study allows the public to have a good understanding about radiation, and facilitates the Government to formulate policies to tackle the problem and safeguard public health.

Deputy President, the original motion and the amendment reflects, in principle, the concerns of the public about mobile base stations, which is understandable. Nevertheless, I believe that the specific recommendations should be thoroughly studied and discussed, and consensus should be reached before the formulation of policies. In any case, the authorities should face squarely the aspirations of the public in the areas of telecommunication and health protection and strike the right balance.

Deputy President, I so submit.

DEPUTY PRESIDENT (in Cantonese): Does any other Member wish to speak?

(No Member indicated a wish to speak)

DEPUTY PRESIDENT (in Cantonese): Mr WONG Kwok-hing, you may now speak on Mr Charles Peter MOK's amendment. The speaking time limit is five minutes.

MR WONG KWOK-HING (in Cantonese): Deputy President, just now Secretary Gregory SO said that the contents of his speech are very similar to that of Mr Charles Peter MOK. I think such remark is a ridicule on Mr Charles Peter MOK. I am not sure if Mr Charles Peter MOK has become the spokesman of telecommunication service provider, or he is even qualified to take up the duties of the Secretary. Mr Charles Peter MOK's amendment violates the most basic human rights and the core values of democracy, but to my surprise, it is strongly supported by the Democratic Party and the Civic Party. I cannot help but wonder if that is the true face of the pan-democratic camp.

Deputy President, Mr Charles Peter MOK and Members who have just spoken wondered if it has been proven by authoritative bodies that radiofrequency radiation is related to human health. I have this letter written by the Director of Health (DoH) dated 28 October 2013 in reply to a complainant. In order to refute the argument in the amendment, I have to read out every word in the reply letter written by DoH as follows: (I quote) "With regards to cancer, as to the issue of the relevance of the association between the exposure to radiofrequency electromagnetic fields of mobile phones and brain tumours, glioma and acoustic neuroma, according to evidence obtained by various

epidemiological studies on human bodies, radiofrequency electromagnetic field has been classified as a Group 2B 'possibly carcinogenic to humans' cancer-causing agent by the International Agency for Research on Cancer (IARC) under the World Health Organization." (end of quote)

Another paragraph (I quote): "With rigorous expound and proof, IARC classified radiofrequency electromagnetic field as a 'possibly carcinogenic to humans' cancer-causing agent in 2011, that is, a Group 2B agent. Generally speaking, there is less than sufficient evidence in experimental animals and only limited evidence in humans showing that agents classified under Group 2B are carcinogenic. For that reason, further investigation is required in order to determine whether or not prolonged and heavy use of mobile phones will induce brain tumors, but the possibility should not be eliminated." (end of quote). The last sentence is underlined.

As to whether or not the relevant symptoms are castles in the air? DoH pointed out in the reply that: "electromagnetic hypersensitivity generally means various indeterminate health problems or symptoms, including various skin symptoms, rash, prickling or burning sensation, fatigue, dizziness, palpitations, nausea, and so on, while all the persons affected will consider their symptoms in association with exposure to radiofrequency electromagnetic fields. WHO points out all the symptoms of electromagnetic hypersensitivity are genuine. "This sentence is also underlined, "and the degree of severity could be varied". These are the best and most authoritative refute.

With regards to the distance between base stations and the public, DoH expressed in the reply that, "On the whole, the radiation levels of base stations should be in compliance with international safety standards, besides looking into the radiation levels of individual base station, the total radiation level of all radio base stations at a single location should be taken into account", that is, the overall radiation level, "to ensure that the overall radiation levels are below international safety limits, so as to protect public health. The intensity of radiofrequency electromagnetic field is highest at the source, and the intensity will rapidly diminish when the wave travels further away from the source. For that reason, the public should not get too close to the antenna of the base stations as the radiofrequency electromagnetic field so generated may exceed the international exposure limits."

I wish Mr MOK will listen to the above contents.

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): Deputy President, I also thank the 12 Members who expressed their views just now. I will make a consolidated response in a few aspects.

As what I said in the opening speech, the discussion on radiation safety of base stations must be based on relevant scientific evidence. The non-ionizing radiation limits currently adopted in Hong Kong is developed by the International Commission on Non-Ionizing Radiation Protection (ICNIRP) based on scientific literature. In vetting and approving the applications for bringing base stations into use, the Office of the Communications Authority (OFCA) bases on these objective and scientific standards recognized by the World Health Organization (WHO) so as to ensure that public health is effectively safeguarded.

Mobile network operators must comply with the Code of Practice for the Protection of Workers and Members of the Public Against Non-Ionizing Radiation Hazards from Radio Transmitting Equipment (Code of Practice) issued by the Communications Authority (CA) and design the base stations in the light of the actual circumstances to ensure that the total radiation level does not exceed the ICNIRP's limits. The building works or minor works involved in the installation of base stations in existing private buildings are subject to the regulation of the Buildings Ordinance. To this end, the Buildings Department has issued practice notes and technical guidelines to registered building professionals and registered contractors stipulating the relevant standards and requirements.

We understand the worries of individuals about the non-ionizing radiation generated by base stations. However, conducting consultation before the base stations are installed or brought into use, or regulating the number of base stations as well as the distance between the base stations and residential settlement will not be effective in protecting public health.

The ICNIRP's non-ionizing radiation limits adopted by Hong Kong is a set of complicated scientific standards which set out the standards for electric and magnetic fields strength generated by base stations under different radio frequency bands. Simply put, if a person sees a number of base stations located within a short distance — as mentioned by many Members today — it does not mean that the level of non-ionizing radiation he is exposed to will exceed the standards. The most important issue is to ensure that the total non-ionizing radiation emitted at the location where these base stations are installed does not

exceed the ICNIRP's limits. This target will be met if operators comply with the Code of Practice issued by the CA.

As to conducting consultation before base stations are installed or brought into use, this is not effective in giving more protection to public health, but will, on the contrary, delay or hinder the development of the telecommunications network. In fact, mobile communications of Hong Kong develop rapidly and the take-up rate of mobile phones — as mentioned by a number of Members just now — has exceeded 230%. Our data usage has increased by almost five times since 2011. 4G service has become more and more popular. Over the past three years, the OFCA has received about 19 000 applications for installing or altering base stations which are submitted with a view to meeting the demand of the public and community for communications services. The development of mobile communications plays an indispensable role in maintaining Hong Kong's position as a commercial and financial centre. Among other developed economies, Hong Kong is well known for its quality and advanced telecommunications infrastructure. Of course, we will not just focus on the development of mobile communications and neglect public health. To ensure the safety of base stations, the OFCA has all along strictly adhered to ICNIRP's non-ionizing radiation limits recognized by the WHO as the criteria in approving the installation of base stations.

As what I said at the beginning of the debate, the OFCA has measured the electromagnetic (EM) radiation level at base stations throughout the territory over the past years and no non-compliance has been detected. To safeguard public health, the OFCA will continue to take field measurement of radiation level at base stations randomly and will further promote public education on the features and safety standards of non-ionizing radiation so as to enhance public confidence. In addition, the public may approach the OFCA if they have any enquiries or complaints about radiation safety of base stations. Upon receipt of the complaints, the OFCA will usually arrange on-site inspection and measurement of radiation level, as well as giving a detailed explanation to the public on the results. Just now a number of Members have suggested that this is the best solution if such worries exist among the public. The OFCA will step up its random check on non-ionizing radiation level at base stations to safeguard public health.

On setting radiation limits more stringent than the ICNIRP's, I would like to stress that the ICNIRP's radiation safety limits are based on scientific literature

and health risk assessments. Having consulted the Department of Health (DH), the CA decided to adopt such limits as the non-ionizing radiation safety standards of Hong Kong. The ICNIRP developed these safety limits in 1998 and confirmed in 2009 that they remain effective after making reference to scientific literature published since 1998. In our opinion, the adoption of such limits should not be changed lightly without sufficient scientific justifications.

Just now a number of Members have said that "I am no expert in this aspect" when they expressed their views. This reflects that we need to listen to the advice of scientific experts in this aspect. In this regard, various international authorities including the WHO, the Institute of Electrical and Electronics Engineers and the ICNIRP have been closely monitoring the situation and reviewing relevant researches on the impact of EM fields to human health conducted by international academic and research institutions. The Administration will continue to keep in view the findings of latest researches on EM field-related health effects as well as relevant reports published by other authorities, in order to keep abreast of the latest development and conduct assessments of risk to public health. The OFCA and the DH will keep close liaison and examine in the light of the latest scientific researches to see whether it is necessary to amend the ICNIRP safety limits currently adopted.

Deputy President, just now a number of Members have mentioned some cases in which residents have symptoms of tinnitus, headaches, insomnia and deterioration of concentration due to the base stations. We have made enquiries to the DH on these symptoms and are informed that such EM hypersensitivity is also reported in other places.

EM hypersensitivity is characterized by a variety of non-specific symptoms, which are attributed by the affected individuals to exposure to EM fields, as pointed out by Mr WONG kwok-hing just now. However, according to the WHO, EM hypersensitivity is not a medical diagnosis and is not part of any recognized syndrome. There has been no scientific evidence establishing any connection between these non-specific symptoms and exposure to EM fields, or unanimous scientific reports proving that telecommunications radio installation will affect our sleep.

Deputy President, in promoting the telecommunications industry for the benefits of the general public, the Government also attaches great importance to public health. As such, relevant departments have been strictly vetting the use

of base stations and conducting random checks in accordance with international safety standards, as well as taking note of scientific researches on non-ionizing radiation safety limits conducted by different places around the world. Such jobs have been effective and will be continued. As regard the various requests put forward in Mr WONG Kwok-hing's motion, I am sorry that we cannot recognize them in view of the various reasons and scientific justifications mentioned above.

Regarding Mr Charles Peter MOK's amendment, at present, mobile network operators are required to obtain the consent of the owners or managers of a building before base stations are installed on the rooftop of the building. In vetting and approving the applications for bringing base stations into use, the OFCA will assess the technical requirements in terms of radiation safety so as to protect public health. As to the requests of formulating codes of practice, setting safety requirements for operators and timely reviewing the safety standards of radiofrequency radiation in Hong Kong, the authorities have already put in place relevant requirements and will continue such jobs. Thank you, Deputy President.

DEPUTY PRESIDENT (in Cantonese): I now put the question to you and that is: That the amendment, moved by Mr Charles Peter MOK to Mr WONG Kwok-hing's motion, be passed. Will those in favour please raise their hands?

(Members raised their hands)

DEPUTY PRESIDENT (in Cantonese): Those against please raise their hands.

(Members raised their hands)

Mr WONG Kwok-hing rose to claim a division.

DEPUTY PRESIDENT (in Cantonese): Mr WONG Kwok-hing has claimed a division. The division bell will ring for five minutes.

(During the ringing of the division bell, the President resumed the Chair)

PRESIDENT (in Cantonese): Will Members please proceed to vote.

PRESIDENT (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr James TO, Mr Frederick FUNG, Mr Vincent FANG, Dr Joseph LEE, Mr WONG Ting-kwong, Ms Starry LEE, Mr CHAN Kin-por, Dr LEUNG Ka-lau, Mr CHEUNG Kwok-che, Mr IP Kwok-him, Mr YIU Si-wing, Mr Charles Peter MOK, Mr Kenneth LEUNG, Mr IP Kin-yuen, Mr CHUNG Kwok-pan and Mr Tony TSE voted for the amendment.

Mr KWOK Wai-keung voted against the amendment.

Mr Jeffrey LAM, Mr Andrew LEUNG, Mr Christopher CHEUNG, Mr POON Siu-ping and Ir Dr LO Wai-kwok abstained.

Geographical Constituencies:

Mr LEE Cheuk-yan, Mr CHAN Kam-lam, Mr TAM Yiu-chung, Mr Ronny TONG, Ms Cyd HO, Mr CHAN Hak-kan, Mrs Regina IP, Mr Alan LEONG, Ms Claudia MO, Mr Gary FAN, Dr Kenneth CHAN, Mr LEUNG Che-cheung, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr SIN Chung-kai, Dr Helena WONG and Dr CHIANG Lai-wan voted for the amendment.

Mr WONG Kwok-hing, Mr WONG Kwok-kin, Mr LEUNG Kwok-hung, Mr Albert CHAN, Mr WONG Yuk-man and Mr CHAN Chi-chuen voted against the amendment.

Mr LEUNG Yiu-chung and Dr Priscilla LEUNG abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 22 were present, 16 were in favour of the amendment, one against it and five abstained; while among the Members returned by geographical constituencies through direct elections, 26 were present, 17 were in favour of the amendment, six against it and two abstained. Since the question was agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was passed.

MR ANDREW LEUNG (in Cantonese): President, I move that in the event of further divisions being claimed in respect of the motion on "Regulating mobile radio base stations to protect public health" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr Andrew LEUNG be passed.

PRESIDENT (in Cantonese): Does any Member wish to speak?

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

PRESIDENT (in Cantonese): Those against please raise their hands.

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the motion passed.

I order that in the event of further divisions being claimed in respect of the motion on "Regulating mobile radio base stations to protect public health" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

PRESIDENT (in Cantonese): Mr WONG Kwok-hing, you may now reply and you have one minute and three seconds.

MR WONG KWOK-HING (in Cantonese): President, let me quote the last paragraph of the Director of Health's (DoH) reply letter as a response to Secretary Gregory SO — in the DoH's view, the World Health Organization acknowledges some people's belief that radiofrequency radiation is hazardous to health. Hence, the DoH points out that before telecommunications radio devices are installed, the Government should allow all stakeholders to take part in the decision-making process and maintain effective communication. Before installing and using base stations, operators have to obtain the consent of the building's owners or managers — my hope is that the Secretary gets the message.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr WONG Kwok-hing, as amended by Mr Charles Peter MOK, be passed.

PRESIDENT (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

PRESIDENT (in Cantonese): Those against please raise their hands.

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the motion as amended passed.

PRESIDENT (in Cantonese): It is now 7.54 pm. All the business on the Agenda should have been concluded around midnight. Hence, the meeting shall continue until the conclusion of all the business.

(Mr LEUNG Kwok-hung stood up)

PRESIDENT (in Cantonese): Mr LEUNG, what is your point?

MR LEUNG KWOK-HUNG (in Cantonese): President, what will be the punishment if you misestimate?*(Laughter)*

PRESIDENT (in Cantonese): Mr LEUNG, I never misestimate.*(Laughter)*

PRESIDENT (in Cantonese): Third Member's motion: Safeguarding editorial independence and autonomy.

Members who wish to speak in the motion debate will please press the "Request to speak" button.

I now call upon Mr Alan LEONG to speak and move the motion.

SAFEGUARDING EDITORIAL INDEPENDENCE AND AUTONOMY

MR ALAN LEONG (in Cantonese): President, I move that the motion as set out on the Agenda be passed. President, in 2010, the *South China Morning Post* announced the appointment of Mr WANG Xiangwei, a member of the Jilin Provincial Committee of the Chinese People's Political Consultative Conference, as the chief editor and subsequently, the coverage of the incident of LI Wangyang "being suicided" was reduced to a 100-word brief. In 2011, Administrative Officer, Roy TANG, took over as the Director of Broadcasting. Three months after he had assumed office, he decided to kick out phone-in radio programme host, NG Chi-sum, and scathing criticisms have since ceased to be heard in the programme; two years later Roy TANG attempted to move the flagship programmes, "Headliner" and "Hong Kong Connection", to Asia Television Limited (ATV) with a zero viewership rating; he further demanded that "Legislative Council Review" be scrapped and even planned to place Forever SZE, a representative figure of "the opposition", in an acting-up post forever. In 2012, HAO Tiechuan of the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region (LOCPG) called the boss of the *Hong Kong Economic Journal*, Richard LI, accusing the *Hong Kong Economic Journal* of its excessive coverage on criticisms against LEUNG Chun-ying, and LEUNG Chun-ying, after taking up his office, issued a lawyer's letter to the *Hong Kong Economic Journal* and sued Joseph LIAN for libel. In the following year, successive staff reshuffles took place in the *Hong Kong Economic Journal* as chief editor CHAN King-cheung was transferred to another post while the editor of the column "獨眼香江"¹ which is known for its satirical commentaries, YAU Ching-yuen, resigned together with his team. In 2012, the Digital Broadcasting Corporation (DBC) kicked out Albert CHENG, and DBC shareholder, Bill WONG, said in express terms at a shareholder meeting that the LOCPG did not like LI Wei-ling, a famous radio talk show host, and did not wish to see her appearing in DBC programmes. A year later, Commercial Radio where LI Wei-ling works transferred her away from the morning commentary programme.

President, the freedom of speech in Hong Kong has been continuously suppressed in recent years. Media people who criticized the Central Authorities and the establishment have been "disappeared" one after another. These are no individual cases. We must voice out at once.

¹ There is no official translation of his column title, and literally it means "one man's view on Hong Kong".

President, some people have asked me, "Alan, how much is freedom a catty? While you are so concerned about the sacking of LI Wei-ling and NG Chi-sum, you had better care about me as well." Indeed, President, the question of how much freedom or the freedom of speech is a catty does lead me to do some soul-searching and I then think of a famous poem written by a German theologian, Friedrich Gustav Emil Martin NIEMÖLLER, as a confession of guilt. Applying the verses of this poem to the current status and situation of the media in Hong Kong, I think the poem may probably go like this:

"First they muzzled NG Chi-sum,
I did not speak for him —
because I could still see him on television;
Then they moved LI Wei-ling from the morning to the evening,
I did not speak for her —
because I did not wake up that early to listen to radio;
Then they replaced the chief editor and senior editorial staff,
I did not speak for them —
because I did not read newspaper;
And finally they did not issue a licence to HKTVN,
I did not speak for it —
because there were enough television stations for me to watch,
And when they finally came for me,
there was no one left to speak out for me."

At this time here, Mr LU Xun's words lingered in my ears: "Either we go off in silence or die in silence." President, today, we must come forth to defend press freedom and to defend editorial autonomy. In doing so, we are actually defending our right to know and our right not to be brainwashed.

Today, sophistries abound in the political sector. President, these two phrases certainly keep ringing in our ears: "Not talking about it does not mean not doing it; talking about it is regarded as having done it". LEUNG Chun-ying is using such hypocritical rhetoric to deceive the people in an attempt to muddle through. The public can only rely on journalists to filter off fallacies and reveal the truth for them to see clearly what LEUNG Chun-ying has done.

Press freedom is the foundation of freedom. If the media becomes a puppet of the Government and the big wigs, the 7 million Hong Kong people could only bathe in falsehoods and remain ignorant even when their rights have been eaten up.

President, the year 2014 will be a very crucial year of great significance, especially as the launch of the constitutional reform will render the big wigs affected in their share of interests. I believe the successive incidents relating to the media that occurred early this year and at the end of last year are absolutely no coincidences. It is because those people who do not wish to see a genuine universal suffrage in Hong Kong and who insist on screening for the universal suffrage certainly hope that the media will all stand on their side, so that they can control the discussions, especially as it has been rumoured that one of the political tasks for LEUNG Chun-ying to accomplish after he came to power is to purge the media. This has all the more made people think that this series of incidents all happened for a reason.

Truly enough, the wind of purging is blowing more and more strongly and it is now the turn of *Ming Pao Daily News (Ming Pao)*, which can be said as the last straw that breaks the camel's back. In October last year, the rejection of the licence application of Hong Kong Television Network Limited (HKTVN) made the headlines of *Ming Pao* for several days in a row, and Members should recall this vividly. Rumour has it that *Ming Pao's* Editorial Director, LUI Ka-ming, expressed great dissatisfaction with this at an internal meeting, which foreshadowed the replacement of Kevin LAU.

President, I do not intend to comment on who are capable of taking up the job of the chief editor. Like all Hong Kong people, I am standing on the side of the readers in questioning whether there is any political aim behind this decision made by the management of *Ming Pao*. Why did *Ming Pao* suddenly transfer away Kevin LAU who has not committed any mistake and place in his place two media people who are detached from the public opinions in Hong Kong and even have records of suppressing the media in the past?

Let us not talk about what happened in the more distant past and just look at the criticisms aroused in all sectors of the community after *Ming Pao* has replaced its chief editor. The Toronto edition of *Ming Pao* published in Canada under the charge of LUI Ka-ming outrageously took away at least 10 articles written by columnists who criticized the management of *Ming Pao*, and my article was one of them. What exactly is the platform of newspapers in the eyes of LUI Ka-ming? Is it meant to open up room for free discussion on both supportive and opposition views, or is it a machinery that only sings the praises of achievements and the communists in order to paint an illusion of peace and

prosperity? In the future *Ming Pao* under his charge, would it be that we could only find stories about LEUNG Chun-ying teaching us how to cook golden threadfin breams whereas reports on the unfair treatment given to HKTVN would vanish without trace?

Former chief editor of *Nanyang Siang Pau*, CHONG Tien-siong, who is rumoured to be the successor has all along worked in Malaysia and Singapore. These two countries ranked only the 145th and 149th respectively among 179 countries in terms of press freedom.

In an article specially written for Hong Kong people, freelance writers from Malaysia described that TIONG Hiew-king's media kingdom in Malaysia has (and I quote) "not only undermined the media's power to monitor the Government but also narrowed the room for public discussion, suppressed the progressive forces in society and fostered an insensible and cynical atmosphere to the detriment of the pace of democratization in society". (End of quote) From this lesson that we can learn, should we remain silent but gasp in shock when it is too late to do anything after *Ming Pao* has followed the footsteps of *Nanyang Siang Pau* and become the *People's Daily*?

President, if you still think that the replacement of the chief editor by *Ming Pao* is an individual case, please take a look at how the invisible hand of the powers-that-be has made a big mess of the media sector.

A major part of the operational capital of the media comes from the revenue generated by advertisements. Everyone knows that LEUNG Chun-ying is not happy with Next Media, but LEUNG Chun-ying outrageously adopted financial means to punish *Apple Daily*. It is rumoured that he sent his people to call Kerry Properties Limited, asking it to stop placing advertisements with *Apple Daily*, which caused the newspaper to make \$900,000 less in revenue. It is also rumoured that as the Standard Chartered Bank had, at one time, failed to withdraw its advertisements from *Apple Daily* as requested by LEUNG Chun-ying, LEUNG Chun-ying therefore threatened not to meet with the Chairman of Standard Chartered and not to attend the Standard Chartered Marathon as an officiating guest, acting like a childish primary student who boycotts his friends because they play with other kids in a bid to pitch people in opposing camps.

President, as far as I understand it, the co-called free economy includes a business environment for free competition which is entirely free of intervention. But how is the business environment of the media sector? If you do not listen to the Government, the Government will use its invisible hand to cut off all your sources of income. Hong Kong has earned the reputation of being the freest economy for years. LEUNG Chun-ying, is it that you do not even care about this reputation and are set to destroy yet another core value of Hong Kong only to save your face and then leave a bad name in history?

President, the media sector is already plunged into a mess full of absurdities. Just look at the television industry. ATV was punished by the Communications Authority for five times in 2012 alone and paid \$230,000 in fines, including a fine totalling \$100,000 for the punishment of "ATV Focus" for three times, and the episode in which Scholarism was smeared even attracted a record high of 42 000 complaints. The episode on the television licensing saga in the programme, "Scoop", of Television Broadcasts Limited attracted more than 27 000 complaints in total, which is just second to "ATV Focus" as it attracted the second highest number of complaints.

However, these programmes have continued to be broadcast during the prime time and I must ask: Where is justice?

President, the media sector is in such a big mess now, and we wish to take this opportunity to tell the staff of Radio Television Hong Kong (RTHK) to keep up with their efforts, for they are the only public radio in Hong Kong. According to the definition of the World Radio and Television Council, public broadcasting should be independent of commercial or government influence, and only the people are the boss. RTHK is not a publicity tool for use by the Government exclusively. I hope that RTHK will continue to provide an open platform and uphold the principle of neutrality in providing the public with quality programmes independent of commercial and political influence.

I hope that Hong Kong people, including colleagues in the pro-establishment camp, will join the "one person, one letter" signature campaign to make an appeal to Mr TIONG Hiew-king not to sell out *Ming Pao* easily and not to turn the souls of readers into gifts for the big wigs in order to fawn on them. I so submit.

Mr Alan LEONG moved the following motion: (Translation)

"That the recent post transfer of a veteran and influential journalist by the media organization to which he belongs has once again aroused the concern of society about the impact on freedom of the press and editorial autonomy; a recent opinion poll also indicates that more than half of the respondents consider that the phenomenon of self-censorship exists among Hong Kong news media; and a survey on the credibility of news media conducted by an academic institution even reflects that the credibility of Hong Kong media has hit a record low since the reunification; in this connection, this Council expresses concern and calls on journalists to remain steadfast in their duties, safeguard the principle of editorial independence and autonomy, and continue to give play to the functions of the Fourth Estate."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr Alan LEONG be passed.

PRESIDENT (in Cantonese): Four Members wish to move amendments to this motion. This Council will now proceed to a joint debate on the motion and the four amendments.

I will first call upon Ms Claudia MO to speak, to be followed by Mr IP Kwok-him, Mr James TO and Ms Cyd HO respectively; but they may not move amendments at this stage.

MS CLAUDIA MO (in Cantonese): President, when it comes to press freedom, anyone can talk about it, and anyone can indulge in exaggerations as words uttered are considered deeds done anyway.

Press freedom should be an independent entity and particularly, it should be protected and monitored by members of the press themselves. However, the situation in Hong Kong is utterly regrettable as we are degenerated to a state where we have to discuss press freedom in the Legislative Council. In saying that we have to throw weight behind the front-line journalists, we are actually a

bit hypocritical because when we say that we support them, we are, after all, just saying it and thinking that we have done it.

The salary of journalists has all along been on the low side. The Hong Kong Journalists Association has made this point for many years. People may think that Hong Kong is a free market and one who is not happy with his job can quit. If he is at odds with his employer, he may as well resign and switch to another field. In fact, one of my students who studied journalism preferred not to work in a newspaper and has taken up a job in the Information Services Department instead. This is sad to teachers of journalism, and outsiders are unlikely to understand how we feel.

Front-line journalists all vow to persevere. It is, of course, easy to say so, but journalists who have not been tested and trialed are not qualified to make this vow, including myself. Imagine: In the case of an editor, for example, his monthly salary is about \$30,000 and he needs to support the living of his parents and children, whereas his wife's salary is not high or she even does not have a job. If he is not happy with his boss for exercising censorship, we may tell him right away that he should quit his job because we should uphold integrity in whatever we do. But I must ask: On what basis can he talk about integrity? Will someone provide support for his living?

We are discussing safeguarding press freedom today, and a more important objective is to awaken the conscience of employers in media corporations and their scruples. Frankly speaking, just look at employers in the media sector in Hong Kong and tell me how many of them are not Hong Kong members of the National Committee of the Chinese People's Political Consultative Conference (CPPCC) or Hong Kong Deputies to the National People's Congress or recipients of the Grand Bauhinia Medal and the Gold, Silver and Bronze Bauhinia Stars. Their position is known to all. Article 27 of the Basic Law provides that Hong Kong shall enjoy freedom of the press. As I have just said, it is easy to say so, and at most some charters may be drawn up. Radio Television Hong Kong (RTHK) has a Charter too, but why are there still the empty chair incident, the "City Forum" incident, and then the incident involving the HITLER idea and request for an explanation of the idea, which have all been left unsettled in the end? What use is there to talk about Charters?

The survival of the media relies on advertisements. We are very glad that RTHK does not have to rely on advertisements for it is a public broadcaster, the

operation of which is funded by public coffers. But we must be clear that RTHK is not a "public service broadcaster". A genuine public service broadcaster not only faces no pressure from advertisements but is also under no political pressure. Who is Roy TANG? He is the chief editor of RTHK. RTHK has yet been able to play the role as a public service broadcaster. It can only be a "public broadcaster", and there is a great difference between the two. At the meetings of the Legislative Council Panel on Information Technology and Broadcasting many people casually equated "publicly funded" with "public service", and I urge them to distinguish between the two seriously.

The survival of the media relies on advertisements, and it is true that the business sector is sometimes disobedient. Rumour has it that the Chief Executive has sent someone to instruct certain people not to place advertisements with a certain media corporation. This is a rumour. Do we have any evidence? But there is a saying which is very correct. Absence of evidence does not equal to evidence of absence.

Some years back, TUNG Chee-hwa asked Robert CHUNG to stop conducting opinion polls in the academic sector which showed how low the Chief Executive's popularity was. Of course, TUNG Chee-hwa did not make such a request personally as he simply sent his servant named Andrew LO to do it. We journalists in this generation will not forget this incident. But LEUNG Chun-ying even issued a lawyer's letter to Joseph LIAN in his personal capacity. He did not sue Joseph LIAN. He only threatened him. Think about this: He, being the Chief Executive himself, went so far as to claim that he has his personal choice. Can he stop being so hypocritical? Anyone who stands in the public arena cannot pretend that he still has his personal wish. President, you will not causally express your opinions in public and then stress that they are purely your personal views which entirely have nothing to do with your capacity as the President of the Legislative Council. What is it if he is not speaking nonsense? We all know this only too well.

We must uphold fairness in everything we do. Press freedom is the last defence line in any civilized society and this is known to all. In order for Hong Kong to refuse to be "Mainlandized", we must look at what they in the Mainland are doing. Hong Kong has only a few thousand journalists, but there are 250 000 in Mainland China. Their journalists are even required to sit for a licensing examination now, which we have really never heard of anywhere in the world. In order to be a journalist, one has to sit for a licensing examination and

what is more, take a training course using the teaching materials published by the General Administration of Press and Publication of China. The teaching materials consist of two books. First, they distorted the Western concepts of journalism, alleging that the West believes humans are born evil, whereas they believe humans are born good and so, if they follow these concepts of the West, they would be blindly copying others which would be leading them to nowhere. Do we not feel scared on hearing this? Worse still, they said that the separation of powers among the executive, legislature and judiciary is practised because of a lack of mutual trust and that in China, the master of the house is the people and the Government represents the people. If such being the case, what is the point of being a journalist? All of these are obviously brainwashing.

Speaking of journalists in the next generation, there are now 250 000 journalists in China and together with the editors, there are altogether 700 000 people engaging in the press sector in China. They are all licensed, and they are taught the Marxist views of journalism. We do feel frightened on hearing this, do we not? In fact, Karl MARX was most opposed to censorship by government. As for socialism with Chinese characteristics, I think I do not need to say much about it. As we all know, we teach journalism here. The Communist Party of China (CPC) believes newspapers are textbooks for the people, especially in that era when there was no television, but television has become even more influential nowadays. In Mainland China, news is a kind of brainwashing education, a kind of brainwashing framework, and a kind of brainwashing media. As for Hong Kong, let us not think that it is enough to avoid brainwashing education, for brainwashing media is coming to us one after another.

I have read a very interesting article on the Internet and as it is too long, I will only read out about half of it. The title of this article is: "No one finally speaks for me", and I quote to this effect: "When the *South China Morning Post* replaced its chief editor by a CPPCC member and became "reddened", I did not speak out because I do not know English. When NG Chi-sum was removed from a phone-in radio programme of RTHK, I did not utter a word because there was still LI Wei-ling in the other radio station ... When SHIH Wing-ching, the boss of *am730*, was intercepted on the road while he was driving and the glass of his car smashed by a hammer, I did not speak out because I forgot it the next day. When the gate of "Fat LAI"s home was hit and an axe and a machete placed on the driveway, I again did not speak out because someone said that he is a traitor who has betrayed the country ... When the *Hong Kong Economic Journal* took

on a new chief editor for harmony's sake and took away an article in the column "獨眼香江" which led to the resignation of the whole team of staff who worked on this column, I remained silent because I am not a reader of this newspaper which pretends to be elite. When House News was hacked on the Internet, I did not utter a word because I do not use the Internet ... When the chief editor of *Ming Pao* was removed for being disobedient and the editorial department was facing a purge, I did not speak out because I heard that the chief editor is a conceited man. And then I found that Hong Kong has suddenly become very harmonious without any news at all. I then realized that the legislation on Article 23 has been passed by an overwhelming majority of votes and the constitutional reform has reached the decision of supporting one party dictatorship." (End of quote)

President, I hope that the Government really will not stick its oar in the press sector. It must refrain from doing so, especially as the authorities are already found to have tampered with the advertisements and given the others a handle now. It is a myth for the media to be impartial, and just as the saying goes, "Impartiality is a myth". In fact, newspapers are no longer newspapers nowadays, but "Viewspapers". You want to topple the press sector? The press sector will not be toppled. Likewise, press freedom will not be toppled (*The buzzer sounded*) ... fortunately we have the fifth estate.

PRESIDENT (in Cantonese): Ms MO, your speaking time is up.

MS CLAUDIA MO (in Cantonese): Thank you.

MR IP KWOK-HIM (in Cantonese): President, for the specific purpose of today's motion, Mr Alan LEONG and other Members of the pan-democratic camp held a press conference this Monday and explained the reasons for proposing this motion. In the press conference, Members from the pan-democratic camp claimed that certain incidents that took place lately were related to the media. For example, a certain newspaper has changed its chief editor, a hostess of a radio has been transferred from a morning programme and a newspaper claimed that some of its substantial clients have removed their advertisements which used to be placed in that newspaper. These are examples of the media being suppressed and just now Mr Alan LEONG has mentioned them. Mr Alan LEONG queries

that these moves of what he calls suppression of the media stem from the political mission which Chief Executive LEUNG Chun-ying is supposedly tasked to accomplish. I have also heard Mr LEE Cheuk-yan even allege that this year being the 25th anniversary of the 4 June Incident and the Occupy Central movement is also about to take place, LEUNG Chun-ying is trying to fix the media before these happen. Actually, I think the pan-democratic Members are too imaginative and if LEUNG Chun-ying can place his invisible hand on the media, I believe he would not have had such a headache regarding his own problem of having illegal structures in his home.

Recently, a newspaper is about to change its chief editor and this has sparked off speculations about the freedom of the press being infringed upon. On what kind of logic are such speculations based? The boss of that media organization has lots of business activities on the Mainland and owing to such commercial considerations, he does not want to offend the Beijing Government and so he decided to change the chief editor of his newspaper in order to pander to the Beijing Government as well as the SAR Government. While I do not rule out this possibility, there is no evidence to prove this argument. Before the new chief editor from Malaysia reports for duty — actually we do not know if the new chief editor comes from Malaysia or not — we have no idea about his principles in editing and reporting as well as his beliefs in journalism. If we judge alone on the impression that he comes from a place more backward than Hong Kong — this is what I have just heard from Mr Alan LEONG — then I would think that we do not actually know that this allegation is founded on any facts. If this view is groundless and a judgment like this is passed, would it be too early? It cannot be denied that a boss of a media organization has every right to replace a chief editor and it is not likely that he has no influence on the principles of editing and reporting. But we must admit that the principles of editing and reporting are to a greater extent affected by the market. Suppose a newspaper loses a large chunk of its readership because its principles of editing and reporting have been changed, this implies that the newspaper has lost its influence. When a newspaper loses its influence, what is the value of its existence? Will the boss of a news media be as foolish as this? I think, with respect to this question, Members sitting here or all the citizens of Hong Kong will have a judgment of their own.

It is important to defend the freedom of the press because the freedom of the press enables the media to monitor the government and uphold social justice. However, as we talk about the freedom of the press, we cannot help but discuss

the issue of the credibility of the media. Mr Alan LEONG points out in his motion that the credibility of the media in Hong Kong is always on the decline and this is related to the freedom of the press being under attack and the existence of self-censorship in the media. This is the main thrust of his argument. Is this really the fact? According to the findings of a survey announced by the School of Journalism and Communication of The Chinese University of Hong Kong earlier, the overall credibility of the media in Hong Kong has hit a record low since the reunification in 1997. Prof SO who is in charge of the survey pointed out that the finding is related to the performance of the media. This includes inaccurate reporting by the media and the reporting of certain events which gives people an impression that there is an established position. These factors have seriously affected the credibility of the media. Prof SO also said that while there is a relationship between the freedom of the press and credibility of the media, it does not mean that when the freedom of the press is curtailed, the credibility of the media will necessarily fall. The fact is an abuse of the freedom of the press will also lead to a decline in the credibility of the media. This view of Prof SO is in my opinion incisive.

In recent years the people have shown a notable decline in their trust in the media. I believe this is an undisputable fact. Many parents and educators regret that certain media organizations in their bid to go for a higher sales volume will adopt reporting practices which are out of the ordinary. They equate news with entertainment and their reporting is exaggerating and inaccurate. They add pornography and also blood and violence to the stories reported by them. Despite the fact that this kind of reporting can pander to the popular taste, provided that it is lawful, the citizens can tolerate it. But if the reporting has obviously stepped over the line and even affected the course of justice, I do not think the citizens can accept it. An example is about the case of a son killing his parents which took place earlier. A certain newspaper in an attempt to stand out among its rivals went to the extreme of sending a reporter to the Siu Lam treatment centre for mental patients where the suspect was detained and interviewed him. Then the report was published in the front page with elaborate details on his motive of killing his parents, his mindset and the details of the crime. When the media publish this kind of interviews on suspects who are not yet put on trial, not only will it lead to a judgment before trial but it will also form an impression of the case in the minds of the public, hence affecting the jurors and the defendants may be subject to an unfair trial. This kind of reporting will affect the fairness of judgment and it is an intervention in the administration of

justice. It is an even greater damage done to the credibility of the media. Mr LEONG is a barrister by profession and I am sure he will agree with me.

In the Hollywood movie *The Spider Man*, there is this line which is often quoted by people: With great power comes great responsibility. The spider man is a reporter in his day-to-day life. Incidentally, the public calls a reporter "a king without a crown". This is because reporters have the power to expose social problems, monitor the government, see to it that social justice is done and report on the facts. Since media workers are regarded as the Fourth Estate, we can say that while they have great powers, their responsibility is great.

Since reporters have this tremendous power to disseminate information, then what is their responsibility? I would think that abiding by the principles of news reporting is the responsibility which all reporters should bear. Different textbooks on the subject and media organizations may put forward their views on the principles of news reporting. I think that we can refer to the definition of the principles of news reporting given by the British Broadcasting Corporation (BBC). These are: disseminate information in an accurate, truthful, fair and unbiased manner, being fair and reasonable to interview targets, respect their right to privacy and to offer seriously produced programmes of elegance and appropriate subject matter, and being free from any political influence or commercial interest. I therefore think that today we are given an opportunity to engage in discussions in this respect, especially on my amendment which attaches great importance to the belief that when reporters exercise their rights as the Fourth Estate, they must be able to abide by their social responsibility and engage in responsible reporting and will not abuse the freedom of the press.

Thank you, President.

MR JAMES TO (in Cantonese): President, just now, I heard Mr IP Kwok-him deliver his speech. In fact, all that he talked about were just two points, that is, he considered it premature to claim that the replacement of the chief editor of *Ming Pao* would affect the freedom of speech and he also queried what evidence there was.

I believe that the evidence now available is that the editorial director, LUI Ka-ming, queried a number of times the need for the chief editor of *Ming Pao*, Kevin LAU, to make the news related to HKTVN the headlines for so many days. This is very strange. He voiced his view but under what kind of system did he do so? Let us not talk about the distant issues for the time being. The latest issue is that after the incident of replacing the chief editor, some columnists of *Ming Pao* criticized and commented on this incident in their articles, but it turned out these articles were withheld from publication in the Toronto edition of the newspaper. What was the explanation for this at that time? It was claimed that the readership targeted was different. The significance of all these matters could not be more evident and there can hardly be any so-called reasonable doubt. They also prove that the existing freedom of the press is being impinged upon.

Mr IP Kwok-him said that there was no reason for doing so. He pointed out that if the boss of *Ming Pao* was really so foolhardy as to bring about changes to the credibility of *Ming Pao* accumulated over the decades because of the replacement of its chief editor and the change in the line adopted, what influence and value are left of this newspaper? Therefore, even the most foolhardy boss would not do such a thing. This is indeed a new trend. In the past, if a consortium with a lot of money bought a media organization, what was the purpose of doing so? It was intended for self-protection. How could doing so provide protection? If a person owns a media organization, even though it is just one of the many businesses owned by him and even though this media organization may not be the largest newspaper or radio station, at least, when the Government or some other political power wants to influence him, he could still say, "Don't you go too far. I have a media organization and it can speak for me."

However, what is the latest trend nowadays? It is to kill media organizations, in particular, those with credibility and put them on a plate like gifts. If media organizations lose their credibility and their readers, what influence do they still have? However, these media organizations are really something to be reckoned with and now, not many media organizations have the courage to provide objective and impartial news coverage. As we all know, the Hong Kong public also consider *Ming Pao* to be a newspaper with credibility and decades of achievement through its press. This is evident to all people and cannot be achieved overnight.

Take the headline news of *Ming Pao* in the past couple of days as an example. It is mentioned therein that in certain special circumstances, the daughter of a state leader, WEN Jiabao, accepted a large sum of consultancy fee from some consortia or a merchant bank. Moreover, this matter was concealed in various secretive ways. Frankly speaking, not many newspapers have the courage to publish this kind of story after obtaining it. In fact, newspapers that had published this kind of news, in particular, newspapers or media on the Mainland that had published this kind of news, were all persecuted by the Central Government on the Mainland and this is evident to all.

Therefore, the present issue is: It is absolutely possible that killing a media organization with credibility and presenting it as a gift or for saving one's life is a new trend. A Chinese state leader, JIANG Jimin, once said that the media organizations under capitalism were terrific because they would listen to the words of their bosses no matter who they were. In his mind, the media organizations under capitalism are at the beck and call of their bosses. Therefore, if one owns these media organizations, the employees in them would be obedient. Even if one does not buy these media organizations personally, if one can win the hearts of the bosses of these media organizations, one can still influence these newspapers or media organizations through their bosses and they would listen all the same.

Therefore, all along, many bosses of media organizations have been the targets of united front work and among them, there are many delegates of the Chinese People's Political Consultative Committee, and the number is increasing. We find the present trend increasingly worrying. When Henry TANG was running against LEUNG Chun-ying in the Chief Executive Election, he made the shocking disclosure that in the incident of licence renewal of Commercial Radio a decade ago, LEUNG Chun-ying suggested that the licence tenure of Commercial Radio be shortened to three years, so that the Government could have greater sway over it. In view of this, this kind of incidents is by no means uncommon. Why do Members suspect that the transfer of LI Wei-ling from one position to another was related to the licence renewal of Commercial Radio? There were also many other reports and even some friends of LI Wei-ling in the pro-establishment camp told her — it was she who disclosed this — that she would be fixed very soon and that it would be her turn very soon. True enough, after several weeks, she was transferred. In addition, several years ago, the current affairs commentator, Johnny LAU, commented on the candidates for the

Chief Executive Election in his column in *Sing Pao Daily News* and the original title used by him at that time was "Both TANG and LEUNG do not deserve our support". However, after the changes made by the editor, it read "Of the two candidates, LEUNG Chun-ying is preferred" and even the contents of his article were also edited to give backing to LEUNG Chun-ying.

In addition, in June the year before last, the human rights activist, LI Wangyang, apparently "was suicided" in a hospital and this incident shocked the whole world. However, in the English newspaper the *South China Morning Post*, only brief coverage of the incident in about 100 words was carried in a corner of the newspaper. When reporters asked the chief editor about this, the reply they got was, "I made that decision. If you don't like it, you know what to do.". Is this not white terror? Often, front-line journalists have great mettle and they would exert their utmost to investigate and pursue a news story. However, in the final analysis, it is only necessary to change the chief editor and he can then say, "You don't like it? You know what to do.". Therefore, whenever there is the slightest change and when the wind blows even harder and colder, the public must realize that if they lose their freedom of the press, it is not merely a newspaper that they have lost, nor would it do just to refrain from buying a certain newspaper. If a major trend has developed, the result would be a very simple one, that is, the public would become deaf and blind and this financial centre of ours will be denied all objective information and it cannot be a financial centre anymore. Moreover, on all matters, we would only be brainwashed. Without the freedom of the press, other freedoms would also be in jeopardy.

Mr Alan LEONG and Ms Claudia MO quoted others as saying, "I did not care about other people because I thought the danger was not imminent.". However, the fact is that in Hong Kong, such a situation is now imminent. After losing the freedom of the press, how possibly can we safeguard the other freedoms?

MS CYD HO (in Cantonese): President, the resale and ownership transfer of quite a number of newspapers of Hong Kong already took place before 1997. There were changes of ownership in a number of Chinese and English newspapers including *the Ming Pao Daily News (Ming Pao)*, *Sing Tao Daily*, *Hong Kong Economic Journal* and the *South China Morning Post* and all of them are still in business. However, unlike what it used to be when newspapers were

traditionally published by men of letters, press ownership has fallen into the hands of enterprise buyers engaged in diversified businesses, where publication of newspapers is only part of their game.

As early as in 1997, there were already journalists claiming that anyone with the sole purpose of holding fast to the principle of independence and autonomy of the press and publishing a newspaper with no other supporting business would become a target of suppression. Nevertheless, your business would become much easier to carry on if you own a newspaper or a media organization for exploiting connections to and doing businesses with the Central Authorities and are at the same time prepared to compromise freedom of the press for opportunities. This is why we treasure newspapers published by men of letters so much but very regrettably, we do not have such newspaper owners in Hong Kong nowadays who stand firm on principles, ready to resist political pressure. On the contrary, it is common for those in the management to take the lead to suppress their staff internally for commercial and political reasons.

The personnel changes of some newspapers in recent years have really sent chills down our spines. Prominent examples in this regard include Willy LAM and Chris YEUNG of the *South China Morning Post*, the resignation of YUEN Yiu-ching, aka Yau Ching Yuen, together with his teammates in the Kei Hiu Fung section of the *Hong Kong Economic Journal*. As far as electronic media are concerned, we have the examples of Sam NG of Radio Television Hong Kong (RTHK) as well as LI Wei-ling of Commercial Radio Hong Kong. The most recent example is the case involving Kevin LAU of *Ming Pao*, who is in fact a middle-of-the-road cum moderate journalist. The situation in Hong Kong today is no longer one of cooking a frog in lukewarm water but instead, deep-frying it in boiling oil over high heat. Therefore, we have to respond to the situation with concrete action this time around.

I am very grateful to the staff of *Ming Pao*, who have come forth very bravely on this occasion to confront their management and reveal to the public what kinds of threats are being posed to freedom of the press. I am also very grateful to several columnists including Martin LEE, Sam NG, Vivian TAM, LI Wei-ling and Eva CHAN, who have demonstrated their noble ideals by leaving their columns blank so that overseas readers would come to realize how awfully chilling it is for the press of Hong Kong to be subject to such immense pressure.

As a matter of fact, it takes a strong commitment to journalism ethics and standards, ample courage and a readiness to bear the consequences for journalists to come forth as employees in their jobs to confront their bosses in the workplace. However, they actually start to pay their prices once they take up the job as a reporter because upon joining the press sector, they have to accept a salary lower than that offered to their fellow graduates. The salary for amateur reporters of the *Hong Kong Economic Journal* ranges from \$8,000 to \$9,000 monthly and Louis CHA, a scholar cum newspaper publisher, has once indicated that the name of "Ming Pao" itself was worth \$3,000. The value of \$3,000 he was referring to is a standard back then and it is greatly different from the value of \$3,000 today. Staff of *Ming Pao* are now trying to stand firm against their boss even though they are working a low-paid job and have not much money in savings. To our knowledge, their staff representatives had to bear a great deal of pressure during the closed-door meeting. The atmosphere was really bad and they were blamed by the management for soliciting support from external sources to accuse *Ming Pao*. In fact, no concrete promise has ever been made by the management to guarantee that they would not settle accounts with anyone after the incident.

It seems to us that support is now rendered mainly by trade practitioners. This is far from adequate because freedom of the press and editorial autonomy and independence refer not only to the independence and autonomy of trade practitioners, but also to the independence and autonomy of everyone in Hong Kong. Hong Kong people's right to know is at issue and thus, we have to do something to show our support and consider going on a buyers' or subscribers' boycott if anyone should try to settle the accounts after the incident. We have to respond to the situation in our capacity as readers and citizens and punish these employers who are trying to suppress freedom of the press and of speech.

The meeting between the staff of *Ming Pao* and its management this time is also a display of the spirit of collective bargaining. However, they are trying to bargain collectively for public interest but not for their terms and conditions of employment, and they are negotiating with their concerted efforts. Since everybody in Hong Kong will benefit from freedom of the press, and since public interest will also be injured if freedom of the press is undermined, we have to support the staff of *Ming Pao* more vigorously and uphold journalists' editorial independence and autonomy.

I am very grateful to Mr Alan LEONG for moving this motion and would like to urge journalists to remain steadfast in their posts. Nonetheless, we should not let the Government get away since much was done by it in the past to undermine freedom of the press, for example, releasing information selectively to media organizations which are submissive, issuing lawyers' letters to journalists and commentators, and failing to offer any support and assistance to Hong Kong reporters suppressed, obstructed and even arbitrarily detained in Mainland China during news reporting. The Government has also failed to turn RTHK into a public service broadcaster pursuant to the recommendation made by the Committee on Review of Public Service Broadcasting under the chairmanship of Raymond Roy WONG.

The Government has recently submitted to this Council a funding application for the reprovisioning of the Broadcasting House of RTHK and the development of digital terrestrial television services. In every single paper submitted, it is stated that RTHK would engage in public service broadcasting and serve as a public service broadcaster, but the Government is blatantly lying in making that statement for RTHK has so far remained a government department and its finance is still controlled by the Financial Secretary. RTHK is operating on provisions approved and allocated by the Financial Secretary annually and is structurally under the supervision of the Commerce and Economic Development Bureau. Furthermore, its chief editor Roy TANG is an Administrative Officer with no editorial experience and no knowledge whatsoever of journalism. Coupled with the setting up of a supervisory committee, a sword of Damocles is actually placed over RTHK staff, a group of workers committed to public service broadcasting despite the political pressure and shortage of resources.

When the situation is getting more and more difficult today for news media operating on a commercial basis, the independence and autonomy of RTHK has become even more important to Hong Kong. Besides, as the relationship between electronic media and print media has become closer than before under the operations of news reporting nowadays, the role of RTHK, its independence and autonomy as well as its impartiality, accuracy and fairness in news reporting have also become more important to Hong Kong than ever.

Our information technology has already developed to a state where devices can be carried 24-hours a day for anyone to receive news and information anywhere and thus, media organizations have set up 24-hour news channels to

cater to this need. Reporters of electronic media would doggedly pursue their targets of reporting and cover the news at the earliest time possible. Under such circumstances, reporters of print media operating on a smaller scale would resort to "news rehashing", meaning that instead of rushing to the scene for news stories, they would keep their eyes on these 24-hour news channels and prepare news articles to cover the news from what they see on the news footages broadcast in these channels. Is it because reporters of print media do not like to cover news on the scene? Is it very comfortable for them to stay in the office and report news through "news rehashing" and they therefore very much like to do so? Of course not. As graduates from schools of journalism, reporters will of course like to apply their knowledge in media work but due to the manpower shortage in news organizations, they have no alternative but to report news by "news rehashing". We do not consider "news rehashing" a healthy mode of operation but given the appalling conditions, the accuracy and impartiality of electronic media has become even more important when their coverage is the main source of news stories.

The financial pressure faced by mainstream media organizations now has made it possible for them to compromise freedom of the press. Having said that, apart from electronic media in public service broadcasting, we can of course make the Internet a channel to express our views or reveal the truth through reporting by citizen reporters. It is true that we can rely on citizen reporters to cover certain community events but as far as comprehensive news coverage is concerned, their reportage is hampered by a lack of adequate resources and the results are far from satisfactory. The revelation of truth actually requires the tracing, investigation as well as the digging up of ample information by mainstream media, after which new media on the Internet can use their wider and more flexible sphere of opinion to present their stance as commentators.

To my knowledge, the emergence of many commentators in a lot of Internet media is actually the result of public discontent with the censorship in mainstream media. Therefore, they tend to take pleasure in the misfortune of *Ming Pao* in the present case and announce the death of conventional print media. However, judging by the present situation, Internet media operating with a small capital can neither replace the mainstream media nor provide news coverage to the general public with their limited resources and strength. Therefore, we would very much like to protect the mainstream media. I hope commentators on the Internet will understand that mainstream media and Internet media are

actually complementing each other and they should support and assist each other in preventing the triggering of a domino effect.

President, freedom does not belong solely to reporters and journalists and freedom does not know how to protect itself. We have to come forth and exert every effort to protect the freedom we enjoy. I hope the people of Hong Kong will realize that what we have now is actually deep-frying a frog in boiling oil over high heat. We all have to exert our share to safeguard freedom of the press and of speech.

UNDER SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, the motion moved by Mr Alan LEONG today on "Safeguarding editorial independence and autonomy" touches on an issue of common concern, namely: freedom of the press. Freedom of the press is one of the rights enjoyed by the residents of Hong Kong under the Basic Law. Article 27 of the Basic Law stipulates that Hong Kong residents shall have freedom of speech, of the press and of publication.

It is the established policy of the SAR Government to safeguard freedom of the press with our best endeavours and foster a suitable environment for the press sector to develop freely and robustly under minimal regulation.

As a matter of fact, the mass media in Hong Kong thrives with great varieties and the people of Hong Kong can have access to all kinds of news, news information, viewpoints and comments through different channels, including newspapers, radio and television stations, and so on. Journalists have also given full play to their role of monitoring the Government's administration by extensively reporting matters of public concern in our society every day.

The SAR Government is also committed to upholding the principle of facilitating media reporting. In the case of an announcement of major policies or measures and an occurrence of major events, the Policy Bureau or the executive departments concerned will timely issue press releases and make arrangements as far as possible for journalists to cover the news.

President, it is hinted in Ms Claudia MO's amendment that the Government is suppressing freedom of the press. I have to emphasize that the SAR

Government has never done so. We can neither suppress freedom of the press nor accept unreasonable accusations with no factual basis. Therefore, the SAR Government would put it solemnly that we object to the amendment.

As for the part on Radio Television Hong Kong (RTHK) in Ms Cyd HO's amendment, I would like to point out that the Government decided in September 2009 to task RTHK with the mission to serve as a public service broadcaster in Hong Kong. The Charter of RTHK was subsequently signed by the Chief Secretary for Administration, the Director of Broadcasting and the then Chairman of the Broadcasting Authority in August 2010 to spell out clearly that RTHK shall have editorial autonomy and its editorial principles shall be free from commercial and political influences. Suitable resources have also been provided by the Government all along for RTHK to implement its development plans. As RTHK's editorial autonomy has already been protected by the Charter of RTHK, the Government does not see any need for enactment of legislation separately for the purpose and thus, we would also similarly object to the amendment proposed by Ms Cyd HO.

President, I will listen to Members' views on the subject and give my responses later.

Thank you, President.

DR CHIANG LAI-WAN (in Cantonese): President, I thought about from what perspective I should express my views on the motion "Safeguarding editorial independence and autonomy" when drafting the speech. Should I express my views directly, or should I say something pleasing to the ears of the media people? I was hesitant, not knowing how to write my speech. I even thought that I should pass making a speech on this occasion. However, if a journalist dodges sensitive issues with lots of scruples in his mind and exercises self-censorship when writing a news report, how can this be regarded as writing a news report? How can he report the facts in a faithful manner? He would be regarded as fabricating news or stories. What is the current situation of the press sector in Hong Kong? Do most of them report truthfully or fabricate news or stories?

In the motion, Mr Alan LEONG points out that "a survey on the credibility of news media conducted by an academic institution even reflects that the

credibility of Hong Kong media has hit a record low since the reunification". Is this really the case? Let us take a look at some data by the Hong Kong Press Council (HKPC). In 2012, the HKPC received a total of 60 complaints, which is the highest number in a year it has ever received since establishment. So far, 13 complaints are considered *prima facie* cases. Regarding the details of the complaints, these include: false reporting, invasion of privacy, indecent and sensational contents, misleading headlines, biased standpoint, playing the gallery by making use of headlines, and discriminatory contents. Among these, complaints about false reporting increased from 24% in 2011 to 35%. In other words, the reporting approach of some media is problematic and open to question. Meanwhile, fabrication of news and stories is also observed from time to time.

I believe Members will still remember the CHAN Kin-hong incident which led to a public uproar. In this incident, the newspaper concerned was condemned by the public for violating the moral principle. Recently, the newspaper concerned was ordered by the Court to pay several hundred thousand dollars as the litigation cost for defamation. Do Hong Kong media enjoy editorial independence and autonomy? Honestly, I believe the reporting work is independent and autonomous. But how about the editorial work? Does the editorial department really enjoy autonomy? I really have reservations about it. A newspaper publisher will put profit first if he regards the newspaper as a business. On the other hand, if the newspaper is operated according to certain principles, it will be subject to close management, right?

Yesterday, WAT Wing-yin, a columnist of *Ming Pao* said (and I quote to this effect): "I have worked under the democratic boss Jimmy LAI. He almost comes to me to give me advice and instruction every day. He even denigrates my work. If the giving of advice to a subordinate by a superior is regarded as suppressing press freedom, then "Fatty LAI" should be the one who interferes with press freedom in the most extreme manner. Speaking of *Ming Pao*, I would like to talk about my views on what happened to *Ming Pao* recently. I remember that on the next day after the release of the news about the transfer of chief editor Kevin LAU Chun-to of *Ming Pao* to a position responsible for the development of new media, I met a female reporter of *Ming Pao* in a corridor of the Legislative Council Complex. I took the initiative to say to her that it was a good thing. Hearing my remark, she stared at me with her eyes wide open. I told her that the development of new media business is definitely a good thing for *Ming Pao* because, as we all know, the majority of *Ming Pao*'s readers are young

people who like reading news on their mobile phones. But *Ming Pao* has not yet developed its apps, how can it develop its business?

Insofar as Kevin LAU Chun-to is concerned, this may be a good thing. It may be a blessing in disguise. I have known Kevin for nearly 20 years. When we first met, he was very young and did not have any grey hair. Back then, I already thought that he was a very experienced and prudent person. Many years ago, he was able to expand the market of *Ming Pao* into Beijing. Today, I also believe he has the capability to lead *Ming Pao* to a new plateau and develop the new media business.

Undeniably, the recent reshuffle of the senior management of *Ming Pao* has aroused concerns among its staff. The editorial staff even worried that the editorial independence and autonomy might be jeopardized. Their concerns and worries are fully understandable. I would like to call on the employees of *Ming Pao* to hold fast to their posts and have confidence in their enterprise and boss. SZE Shun-kong (施純港), the former deputy chief editor of *Ming Pao* who had worked with the company for 16 years before departure, said that he had never got any feeling that Sir TIONG Hiew-king would tremendously interfere with the editorial independence of the newspaper. He added that the ex-chief editor, CHEUNG Kin-por, often told them that when Sir TIONG Hiew-king was working in East Malaysia, he allowed the editorial department to enjoy a high degree of autonomy while other newspaper owners would tightly control the editorial policy of their newspapers. So we are lucky.

I support the motion. I also believe that all Hong Kong people will support press freedom and the impartiality of journalists in carrying out their editorial and reporting work which is based on facts with due respect for privacy and observance of the principle of fair reporting. I so submit. Thank you, President.

DR KWOK KA-KI (in Cantonese): President, if what Dr CHIANG Lai-wan said were the actual case, the 110 staff members from *Ming Pao* should not put up a silent stand-up strike but should instead thank CHEUNG Kin-por and TIONG Hiew-king for treating them well — in fact they are deeply indebted to Kevin LAU Chun-to. But is this what we see in reality? In the past couple of days, not only the staff members were concerned about the case, academics, the Hong Kong Journalists Association and various stakeholders in society had all come

forward to express their views on the *Ming Pao* incident. Moreover, we notice that many columnists who have been writing for *Ming Pao* for many years have left their columns blank.

I recall the coverage of an interview of Jimmy LAI, the boss of *Apple Daily*, published a few days ago. His remarks were interesting. He said that the incumbent editorial team of *Ming Pao* was gentle and astute, and Kevin LAU was particularly shrewd, yet he still went into troubles. The incident reflects that even such a gentle and astute team is considered unacceptable. When Sir TIONG Hiew-King bought *Ming Pao* a number of years ago, some commentators already predicted that the incident today would happen sooner or later. As many colleagues said earlier, the *South China Morning Post (SCMP)* has also replaced members in its editorial team and the incumbent chief editor is a delegate of the Chinese People's Political Consultative Conference who has intricate relationships with the Mainland.

Some people may ask: Newspapers publishing is a business, is it not? Will any owners who have invested hundreds of million dollars in newspapers publishing hate making money? This remark seems to be logical. However, when we take a closer look at this, we would notice that nowadays many newspaper publishers are not merely involved in newspaper publishing. Take Sir TIONG Hiew-King as an example. He has a lot of investments in the Mainland. As far as investment in the media sector is concerned, other than the *SCMP* and other newspapers, his investment in the Mainland is greater than that in Hong Kong. Therefore, he will not mind his business in Hong Kong incurring a loss, will he? This may after all be regarded as a kind of favour.

Earlier on, certain Members said that there was no problem with the freedom of press in Hong Kong. However, when we look at the chart, we will feel ashamed. At present, Hong Kong ranks the 58th, but we were in the 54th last year. Countries ranked in front of Hong Kong include Haiti, Trinidad, République du Niger, Romania, The Independent State of Papua New Guinea, El Salvador, Republic of Ghana, República Oriental del Uruguay, The Republic of Namibia, Costa Rica and Jamaica — Jamaica ranks the 13th and Costa Rica ranks the 18th. Unexpectedly, these developing countries, or certain countries which we have never heard of, have attained such a high ranking. Some Hong Kong people, including some journalists, may feel good about themselves, thinking that the freedom of press in Hong Kong is not a cause of concern before the

occurrence of the *Ming Pao* incident. Yet, when we consider the incidents occurring around us, a shiver goes down our spine.

Honourable Members, do you still remember the "818" incident? When leaders of the Central Authorities visited Hong Kong, the authorities set up a core press area and a core protection area to separate reporters. Do Members still remember the "black shadow"? Besides, incidents involving Hong Kong reporters being treated violently and battered and their equipment being thrown away and film being pulled out from cameras happen every year. Some people think that the situation only occurs when State leaders visit Hong Kong or when Hong Kong reporters cover news in the Mainland, but the fact is that the fire is close. When *Ming Pao* cannot tolerate someone like Kevin LAU, the preference of the owner of the newspaper is crystal clear.

Mr CHONG from Malaysia is only a chess piece. This chess move sends a clear message. Does it matter if this means losing *Ming Pao*? Even though *Ming Pao* has once been rated as the most credible newspaper, it means nothing to them? They will not consider this any loss. Newspapers will cease publishing one after another even if they are regarded as mild and representing the voice of the people. It will be the prevailing trend. It should not have gone unnoticed to Hong Kong people that the freedom of press is in peril. Among the newspapers and media agencies still in operation, not many can inspire trust among us that they are taking an independent and impartial stance.

I heard some Members from the pro-establishment camp say that the coverage by certain media is not faithful to the fact, but is this not the case of leftist newspapers? *Ta Kung Pao* and *Wen Wei Po* are doing smearing every day, so what? It is no individual case that polarization is forced to take place. It is no easy task for a newspaper to fight for survival in such narrow latitude. We see that the freedom of press in Hong Kong is plunging into darkness, for it will cost tens of million to hundreds of million dollars to maintain a newspaper, and someone is buying newspapers one after another to destroy them one by one. Before long, we will be reading and watching news in uniformed "China Television Style" and standard news. The freedom of press in Hong Kong is dead.

I so submit. Thank you, President.

MR CHEUNG KWOK-CHE (in Cantonese): President, *Ming Pao* has been in publication in Hong Kong for many years, and even though there have been some voices raised against it in society, *Ming Pao* can generally be considered as a newspaper of relatively higher credibility. The change of *Ming Pao's* chief editor this time has aroused great public concern, as people are concerned that freedom of the press in Hong Kong has been gravely injured. This certainly has something to do with *Ming Pao's* status as an iconic media symbolizing Hong Kong's freedom of the press. In reality, however, this is not the first time that the alarm about Hong Kong's freedom of the press is sounded. Let me do some rough counting. About 10 years ago, a programme of Commercial Radio Hong Kong, "Teacup in a Storm", changed its host; a few years ago, an article of current affairs commentator LAU Yui-siu in the press was distorted; in November 2011, Mr Sam NG was removed from the phone-in programme "Open Line, Open View" he had been hosting for Radio Television Hong Kong; Miss LI Wei-ling who used to host a morning programme for Commercial Radio Hong Kong was redeployed to host an evening programme; and the senior editor and reporters of the *Hong Kong Economic Journal* responsible for the column "獨眼香江" resigned *en masse* from the paper. One common characteristic shared by all these staff changes is that the persons concerned are famous for having the courage to speak their mind.

In addition, recently, there have been rumours about the Chief Executive having exerted his influence to force the estate developers and banks to withdraw their advertisement arrangements with the *Apple Daily*, as retaliation on the newspaper for frequently publishing comments against the Government. The relevant responsible persons in all these incidents have claimed that the changes in arrangement are normal ones without any political motives, but seeing what have been happening in front of them, how can the public believe that what they have been told is the truth? In connection with the change of *Ming Pao's* chief editor, the "Canada East Version" of *Ming Pao* has unusually removed the columns discussing this incident. So, what has been in the eyes of the public a disguised move to gradually "dry up" the newspaper is now changed to a blatant move to "cut its throat". Hong Kong's freedom of the press and freedom of speech can be considered "dead".

President, for a society, the freedom of the press is one form of freedom of speech. In a civilized society, every citizen should have the right to express his or her personal views regardless of whether he or she is a beggar in ragged

clothes, a well-educated university professor, a low-income earner living in a "sub-divided unit", or a distinguished member of the political or business sector. What is more, such personal views should be given the chance to be discussed openly among the community and debated thoroughly. It is only in this way that the interests of each and every stratum of society can be protected effectively. Besides, it is only after fervent debates that the reasonable conclusions so drawn can be recognized and preserved in the form of relevant systems to become the common asset of the public. That way, both society and its posterity can be benefited and helped to carry on the social order of a civilized society, thereby ensuring social stability and contributing to prosperity of the community.

Freedom of the press is one core value of the modern society, formed after 200 years' gradual development. Advanced countries and regions all over the world all treat news media as the Fourth Estate, aside from the executive, the legislature and the judiciary. The basic concept in this connection is that if a society does not have in place an effective and powerful mechanism of monitoring by the press, the government and the community will become corrupted. Should that be the case, rather than enjoying stability and prosperity, the society will find itself in turmoil.

With regard to the media people purged in recent years, they are all "talk show hosts" or current affairs commentators very popular among members of the public. In fact, the roles and functions of the media in a modern society have long transcended the basic scope of producing accurate news reports. One turning point in the development of modern media was first triggered off when members of the public started writing articles in newspapers to express their views and discuss social issues. This development rendered newspapers a public domain contributing directly to the development of countries like the United States into the first nations enjoying a democratic, civilized and comparatively more open social system. Under the protection of freedom of speech, the media have constructed an effective platform for the public to voice their views, so that members of all strata of society who do not know each other can jointly set up a communications hub. Actually, such kind of communication, understanding and collaboration among members of the community is one objective that governments should all aspire for, as this is the basis on which a society is developed; otherwise, the people in society will not talk to each other or care about each other, rendering the society in dissociation, lacking cohesion. Actually, the commentaries in newspapers and phone-in radio

programmes are now playing their role to develop cohesion among members of society, so that people from different strata of society can all take part in it. I hope the Government can see that these seemingly disturbing and sharp voices from our community are in fact a very precious asset of our society. The crux of the matter lies in how the Government responds to public opinions in an effective manner, and turns such opinions into some bases for policy formulation.

President, in a stable and prosperous society, people talk about "freedom of speech" as if it is a matter of course. This is because when the basic values of society do not conflict greatly with the rights enjoyed by members of different social sectors, it is easier to seek common grounds and accommodate differences, and to foster compromise and tolerance over some minor disputes. However, in nowadays Hong Kong where the Government is frequently making policy blunders, social justice is undermined, and distribution of resources is unfair, the social role of the media as a public platform has become all the more important. If freedom of the press in Hong Kong is dead, the future of Hong Kong cannot but head towards a "dead end".

With these remarks, President, I support the motion.

MR GARY FAN (in Cantonese): President, my thanks go to Mr Alan LEONG for proposing the motion today to give us the opportunity to voice our views on safeguarding the freedom of the press in Hong Kong. The media in Hong Kong are now caught between the devil and the deep blue sea. The Neo Democrats feel strongly about the critical situation now faced by the media in Hong Kong. I hope those front-line workers will know that: While you are defending the freedom of the press at the battlefield, many Hong Kong people are giving you the utmost support behind you.

President, the recent replacement of the chief editor of *Ming Pao* had caused much a stir in the media sector. There are public comments that the owner of *Ming Pao*, the Malaysian Tan Sri Datuk Sir TIONG Hiew-king, wished to curry favour with the Beijing Government, and thus replaced the chief editor on the blame that *Ming Pao* has lost the title of "the most credible" newspaper, so that the editorial independence and autonomy of *Ming Pao* are offered on a plate. The latest news said that the incumbent editorial director and the former chief editor of *Ming Pao*, CHEUNG Kin-por, would be *Ming Pao*'s acting chief editor

in Hong Kong. However, it has been learnt that the management will eventually appoint a Malaysian as the chief editor. Staff members from *Ming Pao* are fighting hard in the battle, striving to change this unacceptable reality.

In fact, the problems faced by staff members of *Ming Pao* are also the difficulties faced by Hong Kong people in safeguarding the freedom of the press. The replacement of the chief editor ultimately will not only affect reporters and editors who are only wage earners, but also readers of newspapers, the general public of Hong Kong. Come to think about this, if all television stations, radio stations, newspapers and magazines exercise self-censorship top down from the editorial structure to curry favour with Beijing, the content of all media will be standardized. Do readers still have choices? Is there room for choice? Hong Kong is a pluralistic society, but it will be reduced to a "one-voice" city. All views which are politically incorrect and non-mainstream will be deleted. By then, will there still be freedom of the press and freedom of expression?

President, Mr Alan LEONG who proposed the motion has written an article in his columns stating that the Mainland is suppressing the media in Hong Kong, and the battle is on full scale. This is a bitter battle, and it is obvious that it is one of the four major "political tasks" Chief Executive LEUNG Chun-ying has to accomplish within his tenure. In fact, since the transfer of sovereignty of Hong Kong in 1997, the Mainland's surveillance over the media of Hong Kong can be traced. The tactics adopted to gradually impose the communist assimilation in Hong Kong include: the taking over of the media by China-affiliated enterprises, as in the case of Asia Television and *Sing Pao*; the offering of commercial or political interests to owners of the media as a means to enlist support, as in the case of the *South China Morning Post* and *Sing Tao Daily*; and the setting up of agencies of Mainland television stations in Hong Kong, as in the case of Phoenix New Media and One TV. These bits and pieces indicate that little room is left for local media agencies in Hong Kong. If *Ming Pao* fails to defend its front, the Neo Democrats will take this as an indicator that the survival of the local media in Hong Kong has reached the critical moment, and Hong Kong people are counting the days they can enjoy freedom of the press.

President, the credibility rating of the media in Hong Kong is dropping year on year. The latest findings of a survey indicated that it has dropped to 6.18, the lowest since 1997, which may be attributed to the use of public instruments for private purposes by individuals. Nonetheless, the core issue lies

in the ecology of the media sector as a whole in Hong Kong. At present, the media relies too much on advertising income. The media has left its survival to the hands of advertisers, as if they are clutched at the throat by advertisers. As a result, the coverage of the media may easily be interfered by large consortia, causing the credibility of the media to drop. Recently, there are rumours alleging that Chief Executive LEUNG Chun-ying has imposed pressure on advertisers in an attempt to stifle individual media organizations. All these have inflicted serious and far-reaching harms on the freedom of the press and editorial autonomy of Hong Kong. We readers are the support of the media, so we must voice out, for if we remain silent, similar suppression will continue to further undermine the freedom of the press which Hong Kong people treasure.

President, staff members of *Ming Pao* had gathered in front of the Legislative Council this morning, and they had given me this blue ribbon which I have pinned on my breast pocket now. A number of Members of the Legislative Council have also been given this ribbon. They hope we will share the concern of Hong Kong people about the freedom of the press in Hong Kong. Through this speech, the Neo Democrats implore the bosses of media organizations in Hong Kong not to curry favour with Beijing Government as this would further undermine the overall interests and the freedom of the press of Hong Kong. Here, I would like to remind all the people of Hong Kong that Hong Kong people are the actual boss of the media. For the manifestation of public power, we are duty-bound to stand by, support and endorse front-line media workers and defend the freedom of the press in Hong Kong, using the people's power of Hong Kong people to ensure that the Fourth Estate that monitors the Government will not be reduced to the propaganda machinery of the Government. Hence, I will vote for the original motion of Mr Alan LEONG and the amendments proposed by Ms Claudia Mo, Mr James TO and Ms Cyd HO.

President, I so submit.

MR RONNY TONG (in Cantonese): President, it would be no exaggeration if I say that I am very emotionally attached to *Ming Pao*. Like many people I started to read *Ming Pao* when I was young. Of course, when I first read *Ming Pao*, it was because I was addicted to the martial arts fiction written by JIN Yong. But later on, I came to depend on *Ming Pao* as a media through which I could learn about what was happening in society.

President, in 2003 *Ming Pao* invited me to make contribution to a column. At the time I was not too confident in accepting the invitation and so I sought Margaret NG's advice. She used her signature expression and stared at me. She asked, "Why ask? Since you have got the chance, you must write. *Ming Pao* is a very good newspaper." And so I heeded her advice and since then I have written for the newspaper for 10 years. I do not know if I will write in my column any more. This is because I am heartbroken when I see that *Ming Pao* has come to such a state as this.

My assistant found a much quoted line from the founder of *Ming Pao*, JIN Yong. My assistant said I can mention the line in my speech. JIN Yong says to this effect: The mission for running a newspaper is not to distort the facts and the opinions expressed can be free.

President, I certainly have great respect for Mr JIN Yong, but can his remark apply to present-day society? In a society which is open and pluralistic, especially in a commercial society like this, an absolute respect for freedom of speech means everyone can express his views, even if the views expressed are not agreed at all. So people who support or oppose the Government can all express their views in a grand manner under the name of freedom of speech.

For me, I ask myself this question: What is meant by freedom of the press? If it is a businessman who runs a media business ... I have no intention to disparage those businessmen, but businessmen are especially prone to be affected and swayed by commercial interest. Are there people in this world who refuse to be swayed by commercial interest? We hope there are, but chances for that are slim.

President, as we look around in Hong Kong, honestly, there is really no newspaper which is neutral and fair. I think the most basic rule about the freedom of the press is to report facts and the opinions expressed must be fair and rational. Most importantly, there should be no political inclination or even political conspiracy which is most terrifying. President, there are newspapers on the left, centre and the right of the political spectrum in Hong Kong. Those on the left and the right are plenty. We all know that they have a clear and unequivocal stand. We will know the political stand of a newspaper just by reading one copy of it. Those newspapers belonging to the centre are fewer in number.

All along *Ming Pao* has claimed to be neutral. Although in recent years I find *Ming Pao* may not necessarily be entirely neutral, it is fairer than many other newspapers. Now when this newspaper is likely to be acquired by other companies, I cannot help but think that the freedom of the press is so cheap that it can be bought by people at any time.

President, when we fight for the freedom of the press, we cannot hope that this can be achieved by relying on one or two Members or the staff of a newspaper. I would think that if there is no respect for freedom of the press and if people will not stand up and come to its defence, it can be said that the freedom of the press is dead.

President, I often caution myself with this example. The incident did not happen many years ago. What I am referring to is a weekly magazine which exposes the private life of people. Once the weekly exposed the private and intimate life of an artiste. The magazine was condemned by all the people. But the publication sold out in that week. The people of Hong Kong should not say on the one hand that freedom of the press should be respected and defended while on the other they will only go after stories they like and those which appeal to their senses. The people of Hong Kong should treasure our freedom which is slowly disappearing.

If the people of Hong Kong are to accept the reality, then not only will *Ming Pao* die but the whole of Hong Kong will also die. We should see if *Ming Pao* sticks to its line, does it deserve our support? If Hong Kong people do not lend their support to *Ming Pao*, it will die after all. Since this is the case, we hope that when one is gone, another will come along. We will wait for someone who truly respects the freedom of the press and will adopt a fair and rational stand to handle social issues. We will wait for that person to come forth and run a newspaper. I am sure a newspaper like this should be successful in Hong Kong.

As we strive for democracy, we should also strive for the rule of law, freedom of the press and freedom of speech. If we do not care about such matters and if we just accept reality as it is, we will serve ourselves right to have neither democracy nor freedom.

Thank you, President.

MR WONG YUK-MAN (in Cantonese): President, this Council has discussed for a countless number of times the topic of freedom of the press. This is something as self-explanatory as the statement "my mother is a woman". Mr Alan LEONG's motion says that freedom of the press and editorial autonomy should be safeguarded. I do not think we can say this is wrong. I have been in journalism work for more than 40 years and as a veteran in journalism, I think that a newspaper publisher should follow the "four nevers" back in those days when ZHANG Jilian was running the *Ta Kung Po*. His four nevers were: Never to be under any political party, never to be blind, never sell and never go private. President, now the *Ta Kung Po* which your younger brother used to be working in has been occupied by the communists. It has become a newspaper of the communist party. It is blind. It is private. Fortunately, it is not sold. Because no one knows to whom it can be sold. It is a mouthpiece of the communist party. Today, the official who will be giving the reply is not TSANG Tak-sing, or else I will ask him if he knows what the "Four Nevers" which ZHANG Jilian was talking about.

Those of us who study journalism and communication will bear one thing in mind and that is: Freedom of the press is relative and not absolute. It will be subject to political control, economic control, social control, internal control and self-control ... all kinds of control. Among these control factors, the most powerful one is internal control. Today we discuss the incident about the transfer of the chief editor of *Ming Pao*, LAU Chun-to. His transfer is related to the boss of *Ming Pao*. What did the management say to them when the editorial and reporting staff of *Ming Pao* made a protest? The management includes people like LUI Ka-ming, CHEUNG Kin-bor and LAU Chun-to, and they all said that the boss has the final say. These people should not be pitied. You are wrong if you think that LAU Chun-to feels that he is gravely wronged when he is transferred. He accepted the transfer graciously and even asked people to give him room in that matter. About *Ming Pao*, if you ask me, I started to criticize it back in the days when Louis CHA ran the newspaper. Before DENG Xiaoping ordered the massacre of Beijing, what was CHA's opinion of DENG? He lavished praises on DENG in the editorials and regarded his remarks as guiding principles for the nation and the teacher for future generations of Chinese. But CHA is after all a scholar whose conscience is not yet callous and after the 4 June massacre, he talked about shedding blood and tears. Beijing was shedding blood and he was shedding tears. I would think that he had a good cause to shed his tears. All along he had been praising the communist party. In CHA's own

words, DENG Xiaoping's thoughts should be the guiding principles for the nation and he should be regarded as the teacher for future generations of Chinese.

About journalists, and as I have also done some research on the history of Chinese journalism, I can find that there are many journalists in Chinese history on whom we should model. And these people had done things that people nowadays can never do. There used to be this famous journalist called CHENG She-wo who said to the face of WANG Jing-wei, the head of the Executive Yuan of the Kuomintang era, to this effect: "I can be a reporter all my life. But can you be the head of the Executive Yuan all your life?" Reporters and journalists are a vocation, not a job. In Hong Kong, among those in journalism in the civilian media, especially those holding the position of chief editor, how many of them will regard journalism as a vocation for life? I do not think there are any.

About the *Ming Pao* incident, as I read the reports in those few days on the records of meetings between the management and the editorial and reporting staff, I grew furious when I read the contents. These are about what Sir TIONG Hiew-king was doing and how humiliated the boss was. And for those on the management side, such as CHEUNG Kin-bor, LUI Ka-ming and LAU Chun-to, they all stood on the side of the boss, using the public instrument for private purposes. They are loyal to their boss who runs a newspaper to advance his private gains. Just imagine how can they be qualified to talk about freedom of the press and editorial autonomy?

I have known these people like CHEUNG Kin-bor, LUI Ka-ming and LAU Chun-to for decades. When LAU Chun-to was the chief editor, *Ming Pao* was an ardent supporter of LEUNG Chun-ying. Put in a nasty way, the fact that LEUNG Chun-ying could have cheated his way to the office of the Chief Executive, LAU Chun-to and *Ming Pao* surely have a part to play. We are supposed to defend editorial autonomy and resist internal control. People who are bosses will certainly exert control on their newspapers. Some Members from the pro-establishment camp have just asked this question, "Can an chief editor not be able to decide on things?" This is true and correct. However, when I was the reporting supervisor of the *Hong Kong Times*, a Kuomintang newspaper, I once picked up a pen and threw at the Kuomintang chief editor and said to him, "You are a party scoundrel and I am a newspaper man." Then I quit. At that time, I was still young, in my twenties. I never worried that I could not find a job. Does the management nowadays has the guts to talk to the

boss like that? It does not. The unfortunate thing is that this newspaper is doing a good job in some investigative reports. But what is the use of it? Those editors and reporters at the front-line are striving to defend editorial autonomy but in the end, their professional spirit is crushed because the boss and the management use the public instrument for their private purposes.

When we discuss this issue today, I think internal control is the greatest problem. In a free society, we should remember that what we treasure is the freedom of speech and this must operate in a free market. It would be ideal if the media are all private. We can forget the Mainland and it has got even the Publicity Department. Secretary Raymond TAM Chi-yuen, will there be a Publicity Department in Hong Kong? It would be terrible if we have one. Now we sense the existence of a Publicity Department in Hong Kong because the lackeys of lackeys like you are trying to fathom the likings of the communists and so they start to purge the media. For people like LAU Chun-to or *Ming Pao*, they cannot even stand people scolding them slightly while actually lending them a big helping hand. They do not think that they have got enough help. This is what the columnist LEE Yee says in the editorial today. It would not do if you do not give enough help. This is like what people used to say: when a man is good to a woman, that is, he is good to her 364 days a year, but if only he is not good to her for one single day, this will erase all the good things he has done to her for the past 364 days. President, this is the same with *Ming Pao* today. It is not doing enough good to the communists and it is not rendering enough help. The result is it has to be fixed.

DR KENNETH CHAN (in Cantonese): President, in the 1990s when I was studying in the United Kingdom, I met some young students from the Mainland who studied journalism abroad. They spoke in a grave tone and with sincerity to me, "Fortunately, there is still freedom, freedom of speech and of the press in Hong Kong. Fortunately, there are people like you who reported truthfully on 4 June incident so that the world could see what had happened." But they also mentioned their concerns that after the reunification in 1997, we had to be very cautious. Even though undesirable things might not occur immediately, we would be "castrated" gradually like an onion being peeled layer by layer. Some people describe such a situation with the metaphor of cooking a frog in warm water. Today, some Honourable colleagues have compared such a situation

with boiling water or burning fire. In recalling those words, it sends a chill down my spine.

In the world of communism, the general public naturally have a different feeling towards press freedom. Those students whom I mentioned just now went on to ridicule the official media and media in the Mainland. They said, "What could be trusted in the *People's Daily*?" After browsing through the newspaper once, the only thing that could be trusted was the date, they said. Except that, nothing reported in the newspaper was credible and the readers must be very careful when reading it. Journalists in the world of communism are like fighting a battle every day. Mr WONG Yuk-man has put it most correctly just now. He picked up a pen and threw it at the so-called leader. Yes, we only have a pen, which is used to fight against the gun. Which side will win in the end? It is really not easy to bear such enormous pressure.

Today, we see that the media in Hong Kong are in a precarious situation and share a common lot. Take the free press *am730* as an example. It can be regarded as a very balanced newspaper in the sense that there are columns by members of various political parties and groupings including the pro-establishment camp and the pan-democratic camp. The contents of the newspaper are considered fair and unbiased. However, the newspaper owner came forth to tell us that Chinese-funded institutions have collectively withdrawn their advertisements, exerting a lot of pressure on him. But he is a good boss. He still encourages his staff to sit tight. As one of their long-time readers, I have also sent a text message to the editors, telling them to sit tight. We have to think of a way out for the newspaper, not for the survival of the newspaper or the livelihood its employees, but because if a platform that allows people to express their views in an unbiased manner is lost, it will be lost forever. This will affect the public's right to know. Like my acquaintance such as the young Mainland journalists who went abroad, we quest for the truth and facts. If the media can no longer uphold justice or expose the truth, the public's right to know will be adversely affected and jeopardized. No one should consider this as "harmony" for this will eventually lead to a situation where the civil society will resort to a more vigorous struggle because information cannot be obtained through the mainstream media. As a result, the Government and the media will not be trusted while trust among the people will also be lost. Eventually, revolution will be the last resort.

I am a long-time reader of *Ming Pao* even though some academics queried its stance and expressed their opposition and even boycotted it in the 1980s and 1990s. Owing to the change of its stance, some people are unhappy with *Ming Pao's* comments. But I did not participate in the protest to oppose *Ming Pao* for a very simple reason. Because it still allowed the expression of different views. In the past 10-odd years, there has been room all along for me to express my personal opinions. Through the opinion page of *Ming Pao*, I can share my study, analysis and insights with other readers who can also exercise monitoring on me. So, it is a platform which deserves our protection, and this is the only reason. I do not have any negative feeling about Kevin LAU Chun-to, TIONG Hiew-king and CHEUNG Kin-por.

However, if the boss of a newspaper resigns to fate and takes the initiative to pander to the rich and powerful, the newspaper will eventually be corrupted and turned into a mouthpiece performing functions no different from that of an official mouthpiece regardless of the diligence of front-line editors and reporters. This is our concern and precisely because of this, we have proposed the motion in this Chamber today. Members of the pro-establishment camp have exhausted all means to divert attention by criticizing that we are full of imagination and changed the subject to the conduct of media people. On behalf of the Government, LAU Kong-wah just now denied any intervention by the Government. He will certainly utter such words, otherwise what else could he say? But honestly, in the academia in which I work, such intervention has at least occurred once, that is, the incident concerning Robert CHUNG. For the Council Chairmen or Presidents of universities, they will suffer "osteoporosis" and become "soft-feet crabs" in the face of political or financial pressure. They will suddenly lose their backbones and become "invertebrates". This is the crisis faced by Hong Kong people as a whole nowadays. It is also a catastrophe faced by the ecology of our media. In view of the fact that we now have to discuss the political reform, I all the more think that the media organizations will be peeled off one by one before being incorporated or suppressed. Afterwards, the Occupy Central movement will be the only campaign to fight against them till the end.

With these remarks, I support press freedom and editorial autonomy.

DR HELENA WONG (in Cantonese): President, recently, the sudden replacement of the chief editor of *Ming Pao* who was rumoured to be succeeded by a journalist from Malaysia has aroused public concern that the press freedom in Hong Kong is under threat. In fact, the replacement of the chief editor by *Ming Pao* is not an individual incident. A series of incidents including the change in ownership of the *South China Morning Post* and the *Hong Kong Economic Journal*, the renewal of NG Chi-sum's contract being denied and the transfer of LI Wei-ling from a morning phone-in programme have led to public misgivings about the SAR Government and the Central Government being intention tightening the control on Hong Kong media and those outspoken journalists. And such misgivings have recently been proven by the words of SHIH Wing-ching, who is the founder of *am730*.

When speaking of the recent replacement of chief editor by *Ming Pao* in a radio programme, Mr SHIH said it was believed that China would tighten the expression of public opinions on a full scale. No matter we like it or not, Beijing seems to have decided to recover the lost ground of public opinions in Hong Kong. We are not sure whether this is a reaction of Beijing to the political reform and the Occupy Central movement to be launched. Mr SHIH also revealed recently that advertisements on his newspaper *am730* had also been withdrawn in recent months. He added that his newspaper might be on the Chinese authorities' list for a fix. It is understood that advertisements began to be withdrawn since November last year mainly by some Chinese banks, including the Bank of China (Hong Kong) and China CITIC Bank. Some customers who placed advertisements in the past have also withdrawn their advertisements. As we all know, Chinese-funded institutions in Hong Kong, including the aforesaid banks, will inevitably be required to comply with the political instructions of "Grandpa" behind the scene in a direct or indirect manner. It is believed that the withdrawal of advertisements is not a purely commercial decision.

When advertisements on *am730* were being withdrawn, advertisements on *Apple Daily* were also withdrawn by three major banks including HSBC, Standard Chartered (SC) Bank and Bank of East Asia. According to information sources, it is suspected that LEUNG Chun-ying and his aides have exerted pressure on local banks to suppress or retaliate against media which have criticized the Government or media which are unfriendly to government policies. It is rumoured that owing to the failure of the SCB to dance to the tune, LEUNG Chun-ying has refused to be the officiating guest of the SC Hong Kong Marathon to be held next month in the same manner he boycotted the anniversary of the

founding of the Liberal Party. In the past, the Chief Executive would attend the celebration. Did he try to punish the SC Bank for its failure to dance to the tune?

We can see that there is indeed a haze of doubt leading to public concern about something having happened. If the aforesaid rumours are true, then the withdrawal of advertisements should not be regarded as a purely commercial decision. Behind the incident, it is those in power who want to achieve certain political aims by interfering with the operation of the free market through exerting political pressure on some commercial organizations in order to affect their decisions. To curry favour with those in power, those commercial organizations are unable to place advertisements on media which have criticized the Government or media of their choice. As a result, the media which rely on advertising revenue to maintain their operation have to consider whether they should exercise a bit of restraint, meaning not to go too far criticizing or making a corresponding compromise in their editorial policies. Otherwise, they may face the problem of dwindling revenue when their advertisements are withdrawn.

Pressure is exerted on the media through controlling the placing of advertisements, thereby affecting the press freedom in a direct or indirect manner. President, we are now discussing how to implement dual universal suffrage and the election of the Chief Executive, in the hope that there will be a democratic political system in Hong Kong. Having studied political science, I know that famous scholars in political science or theories of democracy would say that insofar as a democratic society or system is concerned, there are some important prerequisites or institutional pillars and arrangements for the healthy and smooth development of a democratic system. One of the crucial factors is the freedom of the press and of expression as well as the free flow of information. Apart from official media, there should be independent, objective and impartial media or various kinds of media so that the public can know the truth.

President, the news media play an important role as the Fourth Estate apart from the executive, legislature and judiciary. They are responsible for monitoring the Government and exercising checks and balances to prevent abuse of powers by the Government. Hence, press freedom is a prerequisite for the development of a democratic system for it allows the public to obtain more information from different perspectives and know the truth. As Hong Kong has not yet implemented universal suffrage, we do not want to see the gradual erosion of freedom of the press and of expression in the process of striving for universal

suffrage. On the contrary, we wish to see that the media are independent, outspoken, free to explore different topics and make criticisms from different angles, thereby allowing public access to different information for independent making of judgment. At this juncture, our discussion on "safeguarding press freedom" is all the more meaningful.

President, as Hong Kong will face the challenge of political reform soon, I hope the Government can clarify, analyse or respond why advertisements on some newspapers are being withdrawn; why some journalists are being transferred to other positions and whether such incidents are purely coincidental.

MR LEUNG YIU-CHUNG (in Cantonese): First of all, President, I would like to thank Mr Alan LEONG for proposing today the motion on "Safeguarding editorial independence and autonomy" to give us the opportunity to discuss issues relating to press and editorial autonomy. Mr LEONG has pointed out in the motion that "That the recent post transfer of a veteran and influential journalist by the media organization to which he belongs has once again aroused the concern of society about the impact on freedom of the press and editorial autonomy". I am particularly concerned about his remark that the post transfer "has once again aroused the concern of society about the impact on freedom of the press and editorial autonomy" because the expression "once again" illustrates that it is not an isolated incident. In fact, similar incidents have really happened many times before. Just now, colleagues have cited examples to illustrate that there has been a string of similar incidents since the reunification, with the earliest one dating back to 2003. In this incident, more than 500 000 people joined a march that shocked the Government and eventually led to the stepping down of TUNG Chee-hwa and subsequently some famous talk-show hosts. At that time, two famous talk-show hosts were criticized for having a powerful pull because they were able to instigate and incite the masses to join marches. This was why they were kicked out of their last remaining posts. The situation has since remained unchanged.

In the wake of that incident, we have noticed the emergence of certain phenomena one after another, including the recent programme rescheduling for LI Wei-ling, and the dismissal of NG Chi-sum, who has been known for his fierce and critical criticisms, as mentioned by many Members just now. In addition, both the radio media and newspapers are facing such situations as the withdrawal of advertisements, replacement of editors, and so on. In fact, as pointed out by

Mr Alan LEONG just now, all this points to the impact on freedom of the press and editorial autonomy. President, why am I particularly concerned about these two points? Because another subject of even greater importance is involved: freedom of speech. Freedom of the press and editorial autonomy can ensure freedom of speech. Without freedom of the press and editorial autonomy, there can be no freedom of speech. As I pointed out in the example cited just now, it is really worrying that the Government could have disallowed the two famous talk-show hosts from calling on the public to take their fight to the streets to express their views, for this is a manifestation of the importance of freedom of speech.

Freedom of speech has always been one of the core values safeguarded in Hong Kong. In fact, it is not only the core value that must be safeguarded, as we have always said, Members can also take a look at Article 27 of the Basic Law, which is under the bold title of "Fundamental Rights and Duties of the Residents" and occupying a very important position. Article 27 reads, "Hong Kong residents shall have freedom of speech, of the press and of publication; freedom of association, of assembly, of procession and of demonstration; and the right and freedom to form and join trade unions, and to strike." This is a very important position, why? Because it is very important that people must have confidence in the reunification. But today, such confidence has continued to be undermined and eroded. Moreover, we have started to view reunification with suspicion and fear. Why did we call for a democratic reunification back then? Because we hoped to ensure our freedom of speech under a democratic regime. How about the present situation? Freedom of speech is nowhere to be found.

Actually, freedom of speech is meant to safeguard a more important principle of "Hong Kong people ruling Hong Kong" and "a high degree of autonomy". Today, it is most important to demonstrate to the international community the manifestation of "Hong Kong people ruling Hong Kong" and "a high degree of autonomy" in Hong Kong after the reunification. But how can these goals be achieved? How can "Hong Kong people ruling Hong Kong" and "a high degree of autonomy" be manifested if we do not have freedom of speech? How can we enjoy "a high degree of autonomy" if we are not allowed to criticize the Government? This is why I find the question today very good because it tells me that it is really very important to safeguard editorial autonomy and freedom. Moreover, the relevant issues are interconnected and cannot be considered in isolation or separately. Furthermore, they are now subject to impacts.

Just now, a colleague said that Hong Kong is a capitalist society, and every media organization should enjoy editorial autonomy. For instance, *Wen Wei Po* and *Ta Kung Po* also enjoy editorial autonomy. They should be left to lick the boots of the Central Government if they like to do so, because this is what editorial autonomy means. There is no way for us to intervene. This I do agree. In fact, we have not made any intervention, have we? But most importantly, it is unacceptable for someone to be compelled under pressure to change from their editorial autonomy. For instance, in this incident involving *Ming Pao*, it is problematic that the newspaper is under tremendous financial pressure to change from its editorial and news reporting independence and autonomy. Today, although many employees of the newspaper have come forth bravely to express their dissatisfaction, their employer might still insist on replacing the editor. Hence, I think that not only Members of this Council have to make their voices heard, even consumers have to do the same. But how should they make their voices heard? If the newspaper is found to be unable to uphold independence and autonomy because of a change in editorial direction, consumers should resort to boycotts to put the media organization under pressure from consumers wishing to express their views (*The buzzer sounded*) ... this is the only way to achieve any result.

PRESIDENT (in Cantonese): Mr LEUNG, your speaking time is up.

MR LEUNG CHE-CHEUNG (in Cantonese): President, the motion debate proposed by Mr Alan LEONG today on "Safeguarding editorial independence and autonomy" is triggered by the replacement of the chief editor of *Ming Pao*. Mr LEONG's remark that the replacement could arouse suspicions of suppression of freedom of the press is, in my opinion, a bit exaggerated. Moreover, it has slightly deviated from some actual circumstances of Hong Kong media.

President, a survey published by the Centre for Communication and Public Opinion Survey of The Chinese University of Hong Kong (CUHK) on 4 January 2014 has shown an apparent fall in the credibility of Hong Kong news media. Why should I talk about credibility? Because I find that media autonomy and freedom is absolutely related to credibility. In this survey on media credibility, which has been conducted by CUHK since the reunification in 1997, media credibility has dropped from its highest rating of 6.59 to only 5.82 in the latest poll.

Immediately after the publication of the survey findings, there were voices claiming that the suppression of freedom of the press in Hong Kong has led to the falling credibility of the news media. This bears close relevance to the debate today because the first response of many colleagues in this Council, especially those of the democratic camp, is that there is a need to discuss this issue because of suppression of freedom of the press and of speech in Hong Kong. However, I agree with the remark made by Mr IP Kwok-him just now, that it is not yet known if the replacement of the chief editor of a media will be followed by reform or change. Therefore, the description of the replacement as an act of suppression has inevitably given people the impression that someone is seeking to stir up political panic. I think that it is also one of the ways used by Members to divert the attention of some common phenomena of Hong Kong media nowadays.

Prof Clement SO of the School of Journalism and Communication of CUHK has also pointed out that, although there is a relationship between freedom of the press and credibility of the media, it does not mean that the credibility of the media will definitely fall. Sometimes, according to him, abuse of freedom of the press will likewise cause the credibility of the media to fall. In fact, we hold that abuse of freedom of the press in Hong Kong nowadays is one of the major reasons for the fall in the credibility of the media, thereby causing members of the public to lose faith in it.

Has Hong Kong media abused freedom of the press? We have to look at the surveys conducted regularly on the credibility of Hong Kong news media in general under the Public Opinion Programme of the University of Hong Kong. According to the findings of the latest survey conducted in October 2013, 32% of the respondents consider Hong Kong news media irresponsible, 53% of them think that Hong Kong news media has misused or abused freedom of the press, and more than half of them think that Hong Kong news media has often abused freedom of the press. The misuse or abuse of freedom of the press by Hong Kong news media is found not by a single survey. Similar data can be found in the four surveys conducted recently, too.

I do agree with the assertion that Hong Kong news media has abused freedom of the press. Not only am I among the 53% of the respondents, I am also one of the victims. On 13 August last year, a headline of *Apple Daily* described me as LEUNG's black fans as well as the one who "blew the whistle", in an attempt to fabricate facts to discredit me for no reason. However, I have never received any enquiries about the so-called dinner gathering stated as a fact in the report. This proves that the media is only fabricating facts and making up

stories for greater gains. However, I think that the political motive behind it matters more. It is actually abusing a public instrument for private purposes. Taking advantage of its favourable position, the media is like directing an invisible, soft knife at its political enemies, so to speak. This approach is most despicable. In my opinion, the news media is among those responsible for undermining the credibility of Hong Kong media in general.

Hence, President, insofar as today's debate is concerned, I will support Mr IP Kwok-him's amendment. I so submit.

MR DENNIS KWOK (in Cantonese): President, the mention of freedom of speech or of the press always reminds me that these two freedoms are written as rights in the constitutions of many countries. For instance, the Constitution of the United States provides that the Congress cannot make any enactment that will undermine the freedom of speech and publication, or people's rights to peaceful assembly or petition to the Government. Article 35 of the Constitution of the People's Republic of China provides that citizens of the People's Republic of China enjoy freedom of speech, of the press, of assembly, of association, of procession and of demonstration. Article 27 of the Basic Law also provides that Hong Kong residents shall have freedom of speech, of the press and of publication; freedom of association, of assembly, of procession and of demonstration; and the right and freedom to form and join trade unions, and to strike.

The three aforesaid examples in constitutions have two points in common. Firstly, why is it that freedom of speech invariably comes before freedom of the press? If these two freedoms are independent of each other, neither should take precedence or priority. In all the examples cited, however, freedom of speech comes before freedom of the press simply because of their causal relationship. If the people in a society do not have freedom of speech, they cannot disclose what they understand at heart, or make public or discuss what they see. Such being the case, freedom of the press is simply out of the question. Hence, freedom of speech will always take precedence in any constitution whenever these two freedoms are discussed.

As regards the second point in common, why is freedom of speech, of the press, of procession and of assembly included in the same constitution? The first reason is that these freedoms are people's important rights of expression.

The second reason is that these several rights combined can be used to monitor the powers of the legislature, the executive and the judiciary. This also explains why the media is often called the Fourth Estate. We even have the theory that freedom of speech and of the press is an important right for promoting social progress because its monitoring function can compel the Government to improve administration and reduce the undesirable phenomena in society.

However, it is noteworthy that in exercising its right, the judiciary must uphold people's rights in accordance with the law or the legal base. As the legislature, the Legislative Council must act in accordance with public opinion. Hence, if certain acts of the executive or legislative proposals will trigger a strong reaction in public opinion, Members of the legislature should act in accordance with public opinion. I think Members will recall the march on 1 July 2003. It is precisely due to the power of public opinion that the Legislative Council did not pass the enactment of legislation on Article 23 of the Basic Law that will otherwise undermine the people's freedom of speech and of the press.

The remaining power is the power of the executive authorities. In fact, the executive is the most frequent and vigorous target of monitoring by the people and news organizations. It is thus evident that among the three powers, it is most natural and desirable for the Government to tighten freedom of speech and of the press. The experience of many countries in the world tells us that the executive often makes every possible effort to control and curb the media and in this respect provides the most numerous examples and exemplary cases. In most of the cases, the place concerned must be under despotic rule if its government is capable of curbing freedom of speech and of the press.

With the progress of the times and the rights of the people being taken more and more seriously, the Government will definitely encounter more and more difficulties in controlling the media and suppressing freedom of speech and of the press. However, this does not mean that our freedom of speech and freedom of the press are subject to less and less challenge. On the contrary, we can see that we now face a new type of enemies, and most of them are the impacts of private commercial organizations on freedom of speech and of the press. And most of such impacts take the form of self-censorship exercised by private commercial organizations for political reasons or because of their political stance. Very often, self-censorship is exercised by the management or bosses of the media because of their political stance or for fear of offending the rich and powerful. In order to keep their business afloat, they prefer to exercise

self-censorship and self-control regarding the expression of views on some public affairs or political incidents.

Recently, we have seen an increasing number of cases of this sort, such as the post transfer or dismissal of phone-in programme hosts, the post transfer of a veteran journalist by the media organization to which he belongs, and the rumour that the media is pressurized by other commercial organizations through withdrawal of advertisements. All this demonstrates that freedom of speech and of the press in Hong Kong is under the influence of this trend of self-censorship and self-restraint.

President, of the "four powers", freedom of speech and of the press is the most sacred and vulnerable power because it belongs to the people and the media, and can be exercised by them direct. At the same time, it is subject to influence, very easily, too. Organizations possessing and cherishing this power might choose to give up this power and exercise self-censorship probably due to certain political considerations. Hence, President, we hope and call on all Hong Kong people and members of the media not to give up this power easily.

President, I so submit.

MR FREDERICK FUNG (in Cantonese): President, what exactly is the value of freedom of the press? Can Hong Kong people afford to lose? During LEUNG Chun-ying's term of office, how far should the core values upheld by Hong Kong people and our bottom line retreat? What price does Hong Kong have to pay for LEUNG Chun-ying, a person of no integrity and incapable of governing Hong Kong, for his arbitrary acts and indiscriminate provocation of conflicts? How far can the Central Authorities, the Liaison Office of the Central People's Government and LEUNG's fans go in consolidating the power of "one single man" and for the sake of saving face? Under the governance of this "one single man", Hong Kong's established governance norm, procedural justice and the excellent tradition of maintaining the neutrality of the Civil Service have been destroyed completely. Not only are the rites and music of decorum in tatters, but efforts are made to conceal his faults and publicize his merits. In order to cover up the incompetence of "one single man", there are all sorts of excuses from them being the bombs left behind by former Chief Executives to the civil servants' refusal to change and the Financial Secretary's reluctance to "turn on the tap". It can be said that he has resorted to every means conceivable. Now, he

has even turned to freedom of the press. Fortunately, Hong Kong people treasure freedom of the press and will refuse to surrender it on a plate.

President, the "one single man" faces hurdles after hurdles in administration because the relationship between the executive and the legislature has been undermined as a result of his struggles and political stratagem. His integrity and his style of governance of "better left than right", cronyism and arbitrary acts have severed the tie between government officials and the people. What is more, there are few talents in his governance team with many other government officials being ignorant and incompetent. As a result, as the saying goes, "In the country of the blind, the one-eyed man is king." Given such a deadlock, compounded by Hong Kong's inherent shortcomings, its backward and closed political system, the failure of public opinion to be heeded, and the Chief Executive being allowed to act in a hegemonist manner in defiance of public opinion as if Hong Kong's core values are dirt, how can the Government be run effectively? Good administration and harmonious society are simply out of the question. LEUNG Chun-ying has not only failed to make any effort to resolve these inherent problems, but on the contrary, he has even put the blame on the media.

Unfortunately, a person's attitude determines his destiny. How can one who has no idea of how to cultivate himself and relies on lies to grab the throne of the Chief Executive know how to reflect on himself? The only thing he knows is to conceal his faults, publicize his merits, and cover one lie with another. In the end, he will be living in a world in which even he himself will be cheated. What did he mean by the claim "he will not be complacent in the face of his brilliant political performance" and "he has the strongest governance team ever"? His mindset is running farther and farther away from that of Hong Kong people, as if he is living on Mars. President, a person's attitude determines his destiny. When it was futile to tell lies, LEUNG Chun-ying put the blame on others and even cheated himself, thinking that he was the strongest in the world and his governance was perfect. So, who should be blamed for the problem? The Chief Executive considers that lies in the media creating difficulties and being fond of nitpicking, and so should be held responsible for jeopardizing the administration of the Government.

President, perhaps this attitude of putting the blame on the media is like the stringent control imposed on every word of the news media on the Mainland, just like the control of their tones and attire as a political tool. It appears that

LEUNG Chun-ying is prepared to follow this approach believed by the Mainland authorities. Should our nightmare come true, Hong Kong's unique advantages, including "one country, two systems" and freedom of the press, will be destroyed by LEUNG Chun-ying during his term of office and consigned to history books and textbooks in the future. President, I wish to emphasize that putting the blame on the media is exactly like "putting the cart before the horse" and engaging in perverse acts. Despite LEUNG Chun-ying's incompetence in governing Hong Kong, he and his fans have failed to do any reflection, identify the inadequacies and take the blame and resign. On the contrary, the blame is put on the media. Such a mindset will lead to only one conclusion, that the Government is exhausting all means to fix and enlist the media. By financial means, the Government can take advantage of the rising economic power of "strong China" to exert influence on media operators upstream with its abundant funds by acquiring stakes in them or doing business with them. When it finds that it cannot exercise control on media operators with a firm position, it will resort to curbing its source of revenue and deterring the business sector downstream in a bid to prevent businesses from placing advertisements with the media. As a result, the room of survival of the media which was originally willing to perform the responsibility of monitoring the Government will become increasingly narrow. In the end, it can only beg for mercy and exercise self-censorship in its deathbed.

President, all these incidents, from the silencing of DBC, the initiative taken by the Liaison Office of the Central People's Government to intervene, to the "harmony" incident involving KEI Hiu Fung of the *Hong Kong Economic Journal*, which had eventually led to the resignation *en masse* of YAU Ching-yuen, deputy chief editor of the newspaper and his team, and the transfer of programme host LI Wei-ling on Commercial Radio for no reason, appear to be isolated incidents. According to SHIH Wing-ching, China-affiliated organizations have withdrawn all their advertisements from *am730*. Furthermore, the authorities concerned have colluded with the pro-establishment camp to suppress in an oblique manner Radio Television Hong Kong by economic means. Recently, LEUNG Chun-ying has even blatantly made a telephone call through his aide to request property developer Kerry Properties Limited to stop placing a series of advertisements on its new development with *Apple Daily* despite an agreement already made. What is more, the Chief Executive has extended his evil claw to the banking sector, and the mediocre officials beside him have even exerted pressure on Hong Kong's three major banks, namely HSBC, Standard Chartered and Bank of East Asia, to compel them

to withdraw their advertisements from *Apple Daily*. Since Standard Chartered has, on one occasion, failed to co-operate with the Government, LEUNG Chun-ying has refused to meet with the Chairman of its Board of Directors. What is more, he has refused to officiate at the Marathon hosted by the bank. Hence, the Marathon will not be officiated by the Chief Executive for the first time in history since the reunification. Obviously, the Chief Executive seeks to downgrade this international sports event from the ministerial level to the bureau head level in order to send a clear message to the bank. Today, we are also saddened and terrified by the sudden replacement of the chief editor of *Ming Pao*.

We can see from this string of actions that the suppression of freedom of the press has become more and more unabashed. The role played by the media in monitoring the Government is collapsing. President, it is not only a critical state of life and death for Hong Kong media, but also a critical moment for Hong Kong's core values and survival. Therefore, Hong Kong people must come forth to safeguard freedom of the press and tell LEUNG Chun-ying to stop using money to meddle with the media, such that it can perform the role of monitoring the Government, uphold its professionalism, expose foul incidents and faces behind masks, dig out the truths and prevent itself from being reduced to a propaganda machine for those in power.

Thank you, President.

MR LEE CHEUK-YAN (in Cantonese): The question today, safeguarding freedom of the press, is very important indeed. In my opinion, freedom of speech and of the press is the cornerstone of a democratic and free society. If one has no right to speak and freedom of speech, which means that he has no right to speak and make his voice heard, can he still be regarded as a human being? If he makes his voice heard but no media dares report what he said, his message can still not be disseminated. His freedom of speech will thus suffer a major setback. Members can see that although many human rights activists on the Mainland voice out, their messages cannot be disseminated because they are not reported. Moreover, they will be arrested once they make any noise.

Therefore, freedom of speech and of the press is really a very important cornerstone of society. At the same time, it is very vulnerable, especially under an authoritarian regime which regards freedom of the press as a thorn in its side and news media a propaganda machine. These two values are diametrically

different. While a democratic society has to safeguard freedom of the press, an authoritarian regime will turn freedom of the press into a propaganda machine. These two systems are diametrically different. The theory advocated in Hong Kong is "one country, two systems", and freedom of speech and of the press is one of its components. In Hong Kong, these two freedoms have always been treasured. The situation on the Mainland is, however, entirely different, with all media being regarded as propaganda machines. Those which get slightly out of line will be suppressed immediately. In Hong Kong, people at least enjoy freedom of speech and of the press, even though there is no democracy. However, freedom of the press is now in peril. We might even lose our treasured value, namely freedom of the press, and find the "one country, two systems" edging closer and closer to an authoritarian regime. Should the "one country, two systems" cease to exist in Hong Kong, I think more Hong Kong people will opt for emigration. Nowadays, many people have started to get tired of the futile fight for universal suffrage in Hong Kong and the continual retrogression of freedom. This is why we can already see the swell of an emigration tide. This is not what we would like to see. If we do not wish to see this happen, the due basic freedom of the press must be safeguarded.

Over the past year, Members could see that freedom of the press was in great peril. In the first incident, in which Commercial Radio was involved, LI Wei-ling was transferred from her morning programme to the afternoon. In another incident involving the *Hong Kong Economic Journal*, YAU Ching-yuen and his colleagues resigned *en masse*. Subsequently, there was alleged withdrawal of advertisements from *am730*. Then, LEUNG Chun-ying — in response to a question put by us today, the Government confirmed that LEUNG Chun-ying would not officiate at the Hong Kong Marathon organized by the Standard Chartered Bank. We have no idea of the reasons for this, but there are rumours that LEUNG Chun-ying did attempt to force the Bank to withdraw its advertisements by threatening not to officiate at the event. Now that he has already achieved his goal, I believe he will attend the event. I have no idea what has really happened, but it is very dangerous that the Government could have coerced a commercial organization into withdrawing its advertisements to put pressure on a news media organization.

Of course, there is the incident involving the replacement of the chief editor of *Ming Pao*. Just now, I heard Mr LEUNG Che-cheung and Mr IP Kwok-him criticize pan-democratic Members for causing a political panic.

Members should look clearly that we not causing a panic. It is very clear that all the front-line and former staff of *Ming Pao* have come forth and told the Government and Hong Kong society that the editorial autonomy of the newspaper would be at great risk should its chief editor be replaced in this manner. So, we are not causing a panic. It is the front-line staff of the newspaper who are panicking gravely.

Certainly, the Democratic Alliance for the Betterment and Progress of Hong Kong will ignore all this. Just now, they even went so far as to describe this as an abuse of freedom of the press, saying that it has nothing to do with credibility. Right, I can see that freedom of the press has been abused, too. It is nonetheless better than having no freedom of the press because we believe the public have discerning eyes. Since we believe the public will know the truth after reading all the newspapers, it does not matter how many times I have been discredited. This is why freedom of the press is so precious. If there is no freedom of the press, only one voice can be heard and all newspapers will be reduced to propaganda machines, which is even more dangerous.

However, freedom of the press in Hong Kong is now caught in a precarious situation because all bosses of news media organizations now look at the role of the media from the commercial perspective, with the media being regarded as a profit-making venture and news organizations and the media as a bridge to link them with the officials of the Central Government on the Mainland. According to a news report, *Ming Pao* went into troubles this time around because its boss, Sir TIONG Hiew-king, has placed a wrong bet on BO Xilai, so it has to surrender *Ming Pao* hastily in a bid to demonstrate that it is allegiant to the Central Authorities. Certainly, there are suggestions that this is a conspiracy theory. However, Members should be able to see very clearly that all losses of news media organizations have to do business with the Mainland and hence they have to listen to the words of the Central Authorities. If the Government asks them to withdraw their advertisements, will they dare not to heed? They will not dare because they have to rely on the Government to do business. From the commercial angle, and inherently and structurally speaking, they will definitely make a U-turn and exercise self-censorship.

Therefore, I can only appeal to the public to exercise their power of consumption to boycott all the media organizations that have taken sides, including those which have no editorial autonomy and have been reduced to

propaganda machines. We must exercise our power of consumption to boycott them.*(The buzzer sounded)*

PRESIDENT (in Cantonese): Mr LEE, your speaking time is up.

MR NG LEUNG-SING (in Cantonese): President, the recent personnel change in a media organization has aroused the concern of some people, with the allegation that the impact is significant because the media is the Fourth Estate. Which one is bigger, the media or society? Society is composed of various trades and industries, including the media sector. Trades and industries, including listed companies, have to act in accordance with international standards of corporate governance. I believe the newspaper involved in the incident, as one of the publications of a listed company, should not be an exception. Any personnel changes, business decisions, including the personnel transfer in question, must be dealt with in accordance with the rules of corporate governance. If the public intervene or meddle in the appointment of its editor arbitrarily, they will inevitably be posed this question: Which one is bigger, the media, society or the editor?

Let us refer to the Journalists' Code of Professional Ethics published by the Hong Kong Press Council. The first rule reads, "Journalists should handle news information with an attitude of seeking truth, fairness, objectivity, impartiality and comprehensiveness. Journalists should strive to ensure accuracy of their reports. They should not mislead the public by quoting out of context, distorting facts or twisting original meaning." End of quote. I believe it is reasonable and sensible for the general public to hold such expectations for journalists. However, it is a pity that these expectations are very often not met in Hong Kong. It is not rare for fabricated news or reports about someone being framed to be seen in the past. Such acts indeed warrant condemnation. Even the Chief Executive and government officials are citizens. Hence, their rights should be protected and not be challenged. Likewise, any suspected libel of them should be dealt with solemnly. Alternatively, the matter can be pursued through legal channels, such as issuing a lawyer's letter in accordance with the law, to counter those unruly rumour-mongers.

President, the phenomenon of associating every matter in society with political considerations and letting speculations ferment will do Hong Kong no

good. This incident involving the post transfer of a journalist is purely a normal transfer in a commercial organization. Even the person in question has accepted the transfer gladly. Not only did he express respect for the personnel appointment and decision made by his employer, who has both powers and responsibilities, but he has also made a plea in his column for people from all walks of life to show mercy by giving him more room. This shows that it is inappropriate and unjustifiable for this matter to be exaggerated and publicized unduly. Neither is there much substance in those claims of speculation and incitement, which will cause anxiety among the general public. It is indeed undesirable.

In recent years, the credibility of the media has continued to fall year on year mainly because some people abuse freedom of the press and adopt an exaggerated approach of inaccurate news reporting. Sometimes, they even go so far as to act in defiance of facts in order to achieve their goal. For instance, in the incident of CHAN Kin-hong that occurred years ago, which should still be fresh in public memory, the reporting practice of a certain newspaper aroused the concern of readers and members of the public about the ethics and integrity of the media. Subsequently, the media sector set up a council and formulated a Code of Professional Ethics to remind journalists of points they should note in news reporting. However, the relevant Code is not legally binding. Given the keen competition among Hong Kong media and inadequate self-discipline, we can still find news that is rabble-rousing, promoting pornography and violence and even fabricated from time to time. The only way to enhance the credibility of the media is for the sector to exercise self-discipline stringently. It is really worthwhile for journalists to do some soul-searching.

As regards the placing of advertisements by commercial organizations as mentioned in the amendment, these organizations should be left to consider their own way of promotion according to general commercial principles. Since the advertising industry has been operating effectively in this commercial society of Hong Kong for a long time, the imposition of a restriction by the Legislative Council by adding "not to mix in political considerations" to the motion will undoubtedly become the most powerful political means of intervention in commercial operation. Will the Legislative Council then not become the mastermind guiding the operation of all trades and industries in the commercial sector behind the scene from now on?

As regards Radio Television Hong Kong which is mentioned in another amendment, it ought to perform its duties as a public service broadcaster because its operation is funded by public coffers. Currently, quite a number of countries have public stations receiving a maximum funding of 70% to 80%. For instance, the Canadian Broadcasting Corporation and Australian Broadcasting Corporation receive 70% and 80% respectively in public resources. It is stipulated clearly that both corporations have to perform the functions of cultivating among their people a sense of belonging to the nation. Hence, this Council should propose making a comparison between the real situation of well-known publicly run stations around the world in handling public broadcasting and that in Hong Kong for analysis purposes. I believe the outcome can better enable the public to gain insights, and hence there is a chance for them to work together to promote the upgrading of services and quality of public broadcasting in Hong Kong.

President, I so submit.

MR CHAN CHI-CHUEN (in Cantonese): President, the media in Hong Kong has become darker and darker day after day since the handover of the sovereignty in 1997 — mind you, I said "handover of the sovereignty", not "reunification". I have forgotten since when I have ceased using the word "reunification", and more and more Hong Kong people are not using the word "reunification" either — Before 1997, there used to be an equal share for different opinions in the media and different media had their own stronghold in the sector. But after the catastrophes brought to Hong Kong by the three Chief Executives surnamed TUNG, TSANG and LEUNG, major local newspapers have turned lacklustre one after another. They have lost the integrity like that of the righteous men who have the courage to advance different viewpoints and all that is left in them is the servility of eunuchs who are ready to give up their dignity for gains and benefits.

Today, Mr IP Kwok-him's amendment seems agreeable to me at a glance. It says, "... in recent years, the reporting practices of individual media organizations, including defiance of facts and disregard for the law, have also been called into question ...". The best example that I can think of is the constitutional reform consultation launched recently. Civil nomination is supported by Hong Kong people and no Chinese or Hong Kong official has explicitly said that it is against the Basic Law and yet, the two major "leftist" newspapers have gone so far as to distort the facts. This is the best example of

disregard for public opinions, defiance of facts and disregard for the law, and they are indeed doing a disservice to the painstaking efforts made years back by the veterans in the press who had been writing out of their love for the people. They should have been able to "文匯²百川" (which literally means incorporating different views in writings) but what they have done now is "有欠大公³" (which literally means lacking fairness) and as a result, the credibility of the news media in Hong Kong has been seriously undermined.

The recent years have seen unhealthy trends gradually growing. Members of the press sector have been tempted one after another and they have been vying with each other to fawn on the tyrants, following the footsteps of the two major "leftist" newspapers in support of the Government and the establishment.

This original motion today all started from the removal of the chief editor of *Ming Pao*. Although I have not reacted as strongly as a number of pan-democratic Members have, it does not mean that I am not concerned about the press freedom. In fact, in October last year when Alice KWOK took over as the chief editor of the *Hong Kong Economic Journal* and the then deputy chief editor, YAU Ching-yuen, resigned together with a number of political journalists, I knew that it was a serious matter. In 2014, four major newspapers, "文、明、公、信"⁴, have thus emerged to form the new leadership in the press sector.

If we look around the press sector, we know only too well who are "LEUNG's fans" and who are "TANG's subjects", just that we do not say it out. Some newspapers publishers already decided to stand on his side politically, just that they did not expect "689" to turn out to be no more than a stuffed shirt, after coming into power. The vows made yesterday are merely hypocritical rhetoric, and while they had dabbed cosmetics to beautify the "wolf's look" in the newspapers, everything they did simply came to nothing overnight. It is not a new thing for newspaper publishers to have their own objectives in publishing. As for the principle of editorial independence and autonomy, if the journalists are unwilling to stand firm in their positions faithfully, it would be still useless to rely solely on Members of this Council even if this motion were passed in the vote today.

² "文匯" is the Chinese name of *Wen Wei Po*.

³ "大公" is the Chinese name of *Ta Kung Pao*.

⁴ "文、明、公、信" are Chinese characters used in the Chinese names of four newspapers respectively: "文" (as in '文匯報' *Wen Wei Po*)、"明" (as in '明報' *Ming Pao*)、"公" (as in '大公報' *Ta Kung Pao*)、"信" (as in '信報' *Hong Kong Economic Journal*); while reading these four characters together literally means civilization and credibility.

Mr James TO is so adorable as to appeal to "large consortia and commercial organizations to place advertisements based on general commercial principles and not to mix in political considerations to influence the stances of editorial autonomy of media organizations". This is indeed casting pearls before swine, even like asking a tiger for its hide. Can you ask LI Ka-shing to place advertisements in *Apple Daily*? Even though many columnists have left their columns blank, true words still may not be spoken.

In fact, the young generation has long been moving towards new online media, and even though online media is barred from covering news by this incompetent Government on the pretexts of not having sufficient capacity or them not being mainstream media, I believe online media will not give up and will definitely win the support of netizens. If the traditional media stick to their own way and continue to tell lies while being subject to the control of large consortia and political pressure, we can only open up a new nursery to replant hopes for the truth to be revealed.

Will there be light after the night? With the constitutional reform impending, I must say that where there is no universal suffrage, there is no hope. When even the Fourth Estate responsible for monitoring the Government finds it difficult to survive and the judicial system of Hong Kong is teetering on the verge of collapse, what ability do we still have to resist this callous, indifferent team of officials ruling Hong Kong? How many more times must we be made to go through bogus consultation which is true defiance of public opinions? You think that you will not be replaced so long as you can co-operate? Kevin LAU is a good example.

Some people think that it is most helpful to their master by giving him a mild rebuke which actually comes as a great favour in disguise and pretending to be neutral in making commentaries, and just as LEE Yee said in today's newspaper, from the angle of the ruler, it is because that newspaper has still revealed, though inadvertently, some scandals of the Government and the officials, the ruler can see only the "mild rebuke" but not the "great favour", or he simply takes it for granted that the newspaper should do him a "great favour" but he cannot tolerate the "mild rebuke", thinking that there can only be "great favour". So, there has been "the burning of the chained ships" recently, and Chinese enterprises have withdrawn their advertisements from newspapers, and this is even said to be the result of manipulation by the political black hand

behind the scene in an attempt to turn Hong Kong into a city with no different voices but only uniformity of views. This is most terrifying.

The Macao *modus operandi* and its authoritarian rule are no longer a stretch of water away from us. All that matters now is to talk about benefits only, not politics. If your newspaper is obedient, your newspaper will be crammed full of advertisements. Some enterprises are now finding it difficult to place advertisements with certain newspapers and they have to wait for two weeks. The media has to be unified and it has to sing praises of achievements. Let me ask the media people: Are you psychologically prepared for that? Are you going to make the next generation "ultimate Hong Kong slaves"?

If Hong Kong people do not wish to become slaves and if they really wish to be people who do not want to be slaves — it is not time to sing "red songs"; the Great Wall does not have to be in Beijing. We should build our new Great Wall with universal suffrage.

Why is it that there has been such a powerful force suppressing the media recently? This is actually an "expectation management project" carried out by the Communist Party of China (CPC). Disregarding how many more newspapers are "harmonized", we cannot let the CPC succeed in this vicious "expectation management project". Does it think that the constitutional reform can get through easily and the temperature of Occupy Central can be cooled off by controlling a few more newspapers? It is very wrong to think so. Even if it can buy off all the newspapers, it cannot gag Hong Kong people.

"Return to me a true universal suffrage; Civil nomination is indispensable". The support rate of civil nomination will continue to surge, and it can never be suppressed no matter how many newspapers are "harmonized".

I so submit.

MR ALBERT HO (in Cantonese): President, many people have said that even though we do not have democracy in Hong Kong, we still have a free society. But we have seen that our freedoms are at stake in Hong Kong nowadays. Without freedom of the press, how can there be protection for many of our fundamental personal freedoms? We are precisely facing this very critical moment now. Why have things developed to such a state? The reason is

simple. Because the executive lacks the people's mandate and political credibility and, as a result, finds its governance difficult. If it is unwilling to carry out democratization, it will take another path to consolidate its autocratic rule. On the one hand, it has to rely on external forces and invite intervention from the "Western District" to back it up; and on the other, it will naturally target the media, making it impossible for the people to voice out their views and making it impossible for society to know the situation of the people. As a result, the people will be separated from each other and worse still, influenced by the false media reports, living in falsehoods or even lies told by the Government. What the people will hear is no longer the voices and calls of the people, but praises of the Government's achievements.

President, with the backing of the Central Authorities, the SAR Government has targeted the media and employed both carrot and stick. On the one hand, it has resorted to violence institutionally by, firstly, making use of its public power to grant licences. For example, it refused to grant a licence to the Hong Kong Television Network Limited some time ago, which is entirely unreasonable and against public opinions. As for Commercial Radio, we can see that when they apply for a licence in future, they will face political pressure just as it did in the past, being forced to "know what to do" and make their famous talk show hosts shut up to please the officials.

Secondly, with regard to Radio Television Hong Kong (RTHK), as we can see, the Government has sent an official adept at political management to RTHK, in order to tighten measures on all fronts and dictate many programmes in many aspects. What is more, while the Government has for many years made the decision of developing a new broadcasting house and introducing digital broadcasting and public channels, such an important public policy has nevertheless been murdered without anyone noticing it, denying the public an important forum for expression of opinions.

Thirdly, the Government is creating official media by giving privileges to certain media and giving them hints to enable them to conduct exclusive interviews and cover feature stories. This has led to unfairness and division among the media.

Fourthly, many journalists are subject to many kinds of unfair treatment. When our journalists were given unlawful and unreasonable treatment by the

Mainland authorities and barred from covering news while working on the Mainland, we have not seen the Government speaking up for the Hong Kong media and fighting for the journalists to enable them to exercise their right to cover news. What is more, we have seen that on a number of occasions, Hong Kong journalists were given unreasonable treatment for reporting news. I recall a case that happened during HU Jintao's visit to Hong Kong. A journalist only asked in a loud voice whether the 4 June incident should be vindicated, and then he was seized and taken away. No explanation has yet been given on this incident. What exactly is this Government? It has gone so far as to treat our journalists in such a manner.

Certainly, there is also the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region (LOCPG). We have seen it openly or secretly putting pressure on the media all the time. An example is that the boss of a certain media received a phone call telling the latter to stop writing articles that criticized officials of the LOCPG. This is simply unbelievable to Hong Kong and yet, it can go so far as to intimidate our media so brazenly.

In respect of soft powers, this Government has outrageously joined forces with many national enterprises as well as business partners with close economic ties and interests with national enterprises to form a huge economic soft power and used this soft power to strike hard blows at many media in Hong Kong. On the one hand, many capitalists have acquired media corporations and as we all know, a number of newspapers have already been brought under the control of some so-called patriotic businessmen directly or indirectly. We can all see that they are gradually exposing their "fox tails". These bosses of consortia have started to interfere with the editorial work and news coverage, personnel establishment, news reports, and programmes. With regard to what is happening in *Ming Pao* now and particularly at a time when Hong Kong is at a critical moment and a lot of important things will be happening this year, they have nevertheless replaced the editor and taken on a newcomer from outside Hong Kong. I think their ulterior motive is there for all to see. Therefore, I do not understand why those pro-establishment Members, including Mr NG Leung-sing, have not only kept on accusing the media for abusing freedom of the press today but even saying that commercial principles are involved in many cases and we should not bother about them. This is indeed helping the tyrant to do evils. Meanwhile, many consortia are even making use of the advertisements to put

financial pressure on the media, making the media keep quiet out of fear and forcing them to exercise self-censorship.

Members, freedom of the press is actually like air to us. When we breathe, we do not know how precious it is, but when the air gets thinner and thinner slowly, we should be aware of the crisis. All in all, our freedoms and freedom of the press are interdependent. We must stand united to defend our freedom of the press. *(The buzzer sounded)*

MR CHAN KIN-POR (in Cantonese): President, Hong Kong is a society with a high degree of freedom. Hong Kong people very much support freedom of the press, and we have all along been staunch supporters of the media. However, there has been much negative news about the media recently, including the turmoil caused by the replacement of the chief editor of *Ming Pao*, the media credibility falling to an all-time low after the reunification, and so on, which have aroused concern about the development of the media in the long term. As the media is a topic under discussion in the Legislative Council today, I think the credibility of the media does warrant reflection by society.

Recently, the School of Journalism and Communication of The Chinese University of Hong Kong has published the findings of a survey on the credibility of the news media. The findings show that the overall media credibility in Hong Kong has fallen to a new low since 1997. According to the academic responsible for conducting the survey, the findings of the survey have pointed to public dissatisfaction with the performance of the press sector, and the reason for a lower credibility has to do with the performance of the media in that the reports and commentaries made by some media are not fair and impartial. For example, some media have adopted sensational reporting practices or biased political stances and made mistakes in the news reports from time to time.

Besides, the Public Opinion Programme of the University of Hong Kong also conducted a survey in October last year. Affected by the furore over free television licences, public ratings of the overall performance of the media and freedom of the press were all down but still, 53% of the respondents said that they were satisfied with the press freedom situation in Hong Kong and only 28% of them were dissatisfied with it. The findings also showed that 53% of the respondents were of the view that the media had misused or abused freedom of the press.

In fact, although it is impossible for an all-time low in media credibility to be entirely unrelated to freedom of the press, we can see from the above surveys and the actual situation that the lower credibility is more directly related to the performance of the media.

Over a long period of time, some media have attached little importance to the principle of objectivity and fairness in news reporting, using exaggerations or malicious criticisms in reporting news and failing to adopt a neutral and balanced approach in the choice of news materials or resorting to stalking or unlawful means to achieve their purpose. Moreover, some programme hosts have dominated the speaking time in their programmes and even resorted to vicious attacks, making the programmes far from neutral and balanced. From these practices adopted by the media in handling news, we may perhaps appreciate why public rating of the media has fallen continuously.

I have heard many people say that while they found the squabbles or hubbub created by these news reports interesting initially, they were nevertheless gradually influenced by these negative emotions, thinking that they themselves were most important, that they were most correct, and that it was always other people's fault, such as the Government's fault, society's fault, and so on. Their mood would then turn from bad to worse, to the extent that they would hurl criticisms and abuses at their family members or friends around them. Therefore, many people eventually chose not to listen to or read such news anymore.

At this meeting today, a number of Members have talked about freedom of the press, but Members may not have noticed that freedom of the press has a twin brother and that is, media ethics. Where there is freedom of the press, there must be media ethics, and freedom of the press is restrained by media ethics. If we advocate freedom without stressing ethics, and if freedom is infinitely expanded, it will be easily turned into a devil once it is used by people with bad intentions. Freedom of the press is a public instrument, and a sharp weapon of media workers who resolutely uphold media ethics. It is absolutely not an "umbrella" for protection of people without integrity.

Certainly, what I have just said refers only to some members of the media sector. Most of the media people whom I know have all demonstrated professional dedication to their job. They do not only handle news with a professional and stringent attitude, but they also firmly uphold media ethics while

defending freedom of the press. They are worthy of our continuous support. In fact, people working in the media sector have to work long hours but their income is not proportional to the efforts they made. What is more, with the rapid development of new media in recent years, the operation of traditional media will grow increasingly difficult and this does warrant greater concern from society.

Lastly, I would like to talk about the *Ming Pao* incident. I certainly support freedom of the press, and as a reader who has subscribed to *Ming Pao* for nearly 40 years, I very much hope that *Ming Pao* can continuously uphold the editorial principles that it has adopted for many years in the past, including a balanced, fair and comprehensive approach in news reporting. For instance, it should report news about criticisms made against the Government and it should also include reports about the difficulties of the Government in administration, in order to enable readers to grasp the full picture of the actual situation. I think these are precisely the traditional values in which *Ming Pao* has all along taken pride. In fact, readers of *Ming Pao* include a relatively large number of middle-class people who are impartial and who wish to receive comprehensive but not lopsided information.

This time around, many staff members of *Ming Pao* have come forth to express their views and this shows that they truly feel worried. But I wish to point out that while a newspaper operates on commercial principles on the one hand, it bears social responsibilities on the other. So, from the angle of operation, the appointment and removal of senior staff members of a newspaper by the boss actually gives no cause for criticism. What warrants our concern is whether the successor appointed to take over the job can in future fulfil the responsibilities given to the newspaper by society. If not, there would be reasons to make criticisms. We cannot find a person guilty before anything has happened. Furthermore, if the boss made a wrong decision, the readers would naturally go away and the boss would naturally have to make changes. Therefore, I think it is indeed premature to pass judgment on this incident at this stage.

I so submit.

MR WU CHI-WAI (in Cantonese): President, just now I heard several pro-establishment colleagues comment on the decline in media credibility and

according to their view, it seems that the media credibility has fallen all because media workers and front-line colleagues or editors in the media are biased in making arrangements. However, a rotten tree breeds worms. If there is no such breeding ground in society, or if the work of the Government is really considered satisfactory by members of the public, how could there be a market for these biased reports? If we do not take into account this fundamental background, we are, in fact, neglecting the very important duty of the media in exercising its public power as the Fourth Estate under the present circumstances. It is indeed unfair to purely attribute the decline in media credibility to the media.

We understand that in Hong Kong society nowadays, we certainly have to support freedom of the press and we must urge all the bosses and readers to make concerted efforts to defend this very precious freedom of the press, in order to monitor the administration of the Government and the development of society as a whole through exercising the powers of the Fourth Estate. In the meantime, there is no denying that the media often encounters a diversity of problems and difficulties in their work, including financial and political suppression. Such suppression has all along aroused our gravest concern for it will undermine the freedom of speech disregarding whether it comes openly or covertly.

The most precious thing about the freedom of speech is that when the media may have stepped out of line or done something that makes some people unhappy and feel upset, a natural mechanism is still in place in society to make a judgment on what it has done. As some colleagues have said, if a media has done something which is not acceptable to members of the public — I stress, members of the public — its readers will naturally desert this media.

As Members may recall, in Hong Kong back in the 1950s, readers of the leftist, centrist and rightist newspapers were actually in large numbers. I remember that when I was small, my family members read *Hong Kong Commercial Daily* and *Ching Pao*, but *Ching Pao* later disappeared quietly. Why? Why would these newspapers which used to exist disappear quietly despite such leftist newspapers enjoying support and patronage from readers in society then? Is it because of problems with the overall principles or directions of the newspapers? Certainly, with regard to these official newspapers, it is impossible for the relevant political authorities to provide steadfast support to so many of them. It is impossible for them to render steadfast support to *Ta Kung Pao* and *Wen Wei Po* while at the same time throwing full weight behind *Hong*

Kong Commercial Daily, *New Evening Post* and *Ching Pao*. It is, therefore, necessary to make a choice. Having said that, society will ultimately make the fairest judgment on the performance of these media.

Today, let us look at *Ta Kung Pao* and *Wen Wei Po*. Will these two newspapers become mainstream newspapers in society? Obviously not. Why? Because there is a great gap or discrepancy between the attitudes and views of these two newspapers in reporting news and the observations of society as a whole. Besides, some newspapers have undergone a change of ownership after the reunification and we can see that their sales have been dropping continuously. This has precisely reflected that in society, the ability and powers of consumers are huge indeed. But despite of this, and even though society has in place a natural mechanism for making judgments, any instance of political interference or even financial interference will lead to interference with freedom of the press as discussed in this motion debate today. This is precisely the greatest worry to us. Regrettably, this is happening in Hong Kong.

Some Members consider that this is just normal operation of the business sector as enterprises will choose to place advertisements with different media and that we cannot say that the withdrawal of advertisements by some enterprises amounts to political interference. But come to think about this: Why did these enterprises withdraw their advertisements for no reason? If that newspaper has an increasing readership, why should they withdraw their advertisements for no reason at all? Is it not the purpose of advertising to obtain the maximum coverage and reach out to as many reader groups as possible? If that is what they seek to do, then they are operating according to commercial principles. But if they depart from this principle by not patronizing media which enjoy high popularity or a large readership and say all of a sudden that they are going to withdraw their advertisements, it will naturally arouse suspicions among the public.

When it comes to operation on commercial principles, I think we should ensure consistency in our discussion. In his speech earlier on Mr NG Leung-sing mentioned the commercial principles for placing advertisements in the media. But I remember on a previous occasion when the incident of the Hong Kong Television Network Limited (HKTVN) was discussed, he nevertheless considered the Government's approach correct and supported the Government in making a judgment on the community's behalf on whether the

granting of a licence to HKTVN would lead to deterioration in the overall ecology of free television service operation. Is this in line with commercial principles? If it is not, are we not handling issues with multiple standards? When society is confronted by the most controversial and most ideologically contentious question of press freedom, it turns out that Members are only using other pretexts to conceal their ultimate and core belief that interference with freedom of the press is not a problem.

I do understand that the CPC achieved success through controlling the media. Let us renew the history. In 1945 when the war against Japanese occupation was over, the Kuomintang allowed the official newspaper of the CPC, *Xinhua Daily*, to exist, and it was through this newspaper that the CPC overturned the regime of Kuomintang and came into power. This may be the deepest lesson to the CPC, but it has forgotten the importance of freedom of the press pledged by it to the intellectuals in the entire society of China back then (*The buzzer sounded*) ...

PRESIDENT (in Cantonese): Mr WU, your speaking time is up.

MR WU CHI-WAI (in Cantonese): ... Thank you, President.

MR JAMES TIEN (in Cantonese): President, the topic of this motion is "Safeguarding editorial independence and autonomy". I think nowadays, an overwhelming majority of Hong Kong people support this motion. The Liberal Party also supports Mr Alan LEONG's original motion.

I wish to make one point here. Other than the media in Hong Kong, let us also look at the media all around the world. Whenever we talk about the concept of independence and autonomy, we refer to the independence of a newspaper or media organization, and if it is subject to external interference, such interference mostly comes from the Government. But what are the criteria for a media to be considered truly independent and autonomous? Is it that the editor should publish whatever written by front-line journalists in order to be considered autonomous, or the management or the editors can decide according to their wish what news to be reported and which article to be made the headline story in order to be considered autonomous? But the shareholders of a media organization,

whether they made the investment in their personal capacity or in the name of a company, will treat it as a business or an enterprise. So, while the media certainly has its social responsibility, it is not a charity organization as it still has to make a profit. As such, with regard to "independence and autonomy", the Liberal Party holds that this should refer to the independence and autonomy of the newspapers or television stations.

Turning back to Hong Kong, we understand that in this incident of *Ming Pao* which has aroused a great controversy, many people have not even seen its boss, Sir TIONG, before because he is not a Hong Kong citizen. But if we look at the bosses of other major newspapers, we will see that they are mostly people who are well known in the community. For example, Mr LI of the *Hong Kong Economic Journal*, Mr FUNG of the *Hong Kong Economic Times*, Mr HO of *Sing Tao Daily*, Mr MA of *Oriental Daily News*, Mr LAI of *Apple Daily*, Mr CHAN of the Television Broadcasts Limited, Mr CHA or Mr WONG of the Asia Television Limited, Mr WOO of Cable TV, and Mr LI of now TV. All of them are Hong Kong people. These newspapers that we read daily have their own position in deciding what reports to be published because even for the same incident, different newspapers will report it in different ways. Such being the case, should it be the front-line journalists who have to be independent and autonomous or should it be the newspaper that has to be independent and autonomous? In fact, I think it is most important not to be influenced by the Government.

The Liberal Party is a political party with affiliation with the commercial sector. We also do business and make investments, and let me speak from the angle of doing business. Since capital has been invested, how much profit can be made or how to make greater profits will have to be taken into account by the listed companies — many media corporations are listed companies. Therefore, we cannot say that the boss, after making the investment, will have no power whatsoever, especially in respect of staff appointment. When a boss has invested capital, how is it possible that he cannot even replace the general manager, or the chief editor in this case, before seeking the consent of his employees?

As regards the example that I have just cited, Members with affiliation with labour unions will certainly express their support because when the boss does not have any say and almost everything has to be decided by the workers, they can then decide who will be the general manager and who will be the factory director.

But from the angle of employers, this is, in fact, unreasonable. Newspapers should enjoy independence and autonomy without being subject to external influence, and only in this way can they be considered truly independent and autonomous.

Our arguments today seem to be centred at the point that the boss of *Ming Pao* who does not stay in Hong Kong over the years and never cares about these affairs has suddenly started to bother with the management of the newspaper and replaced the chief editor. But from the articles published by the editorial team in the newspaper, they actually seemed to find this arrangement acceptable. For example, both Mr LAU and Mr CHEUNG of *Ming Pao* seemed to be saying that they do not see any problem with it. Then why are there such strong views now? Sir TIONG is the boss. He has replaced a member of the staff, and who is going to take over has yet to be known, and even if he appoints a person who is not a Hongkonger as the chief editor, should we give him a chance, just as other colleagues have suggested in their analyses, and see whether or not he will interfere with the freedom of news reporting in the future? We will find out very soon, and we should leave it to discussion in the next term.

Other pan-democratic Members have cited some examples earlier on, and I actually agree with some of them. If there are really these problems in society, such as those relating to the Marathon organized by a bank and advertisements being withdrawn from certain newspapers, we surely do not consider these instances acceptable and we hope that other business enterprises can continuously resist influence from the Government by not withdrawing their advertisements from certain newspapers. But it requires newspapers and consortia in Hong Kong or foreign enterprises operating in Hong Kong, such as foreign banks, and so on ... Speaking of foreign enterprises, let us take a look at the situation in overseas countries, such as the United States and the United Kingdom. Mr MURDOCH owns *The Wall Street Journal*, *Times*, and *New York Post*. Is it possible that he has no clout at all? If it is said that he does not have any clout over the editorials in the United States despite his massive investment in these several newspapers, nobody is going to believe it.

The boss of *The Washington Post* is Jeff BEZOS; the boss of *The New York Times* is Mr SULZBERGER; and the PEARSON family is the shareholder of *The Economist* and *Financial Times* in the United Kingdom. All of them are celebrities, and people all over the world know that they are media tycoons who hold enormous sway. Then what will happen if they have great influences? If

they own these newspapers but do not have a say in anything, what influence do they have? In other words, all the bosses or major shareholders of media corporations actually have some views in one way or another on the newspapers, and they certainly have political clout during elections. In every general election in the United States, we can see clearly which newspaper supports the Democrats or which supports the Republicans.

Therefore, insofar as this motion today is concerned, the Liberal Party considers it most necessary to defend the independence of newspapers. On the question of who among the boss, editors and front-line staff should have a say and who should not have a say in a newspaper, from our angle we think that the boss who has invested capital in the newspaper should, of course, have a say but we still hope that his management is effective, so that there will not be editorial problems and there will not be problems with the front-line staff. This way, the newspaper can be run effectively. If a newspaper always makes untrue reports or if it always makes reports that do not command public recognition, the public will sooner or later reject the newspaper, and when the newspaper is rejected by the people, its readership and sales will fall and its advertising value will naturally drop, to be followed by a decrease in its revenue from advertisements, and the commercial viability of this newspaper will shrink as a result.

Therefore, the Liberal Party supports the original motion. As for the amendments, we only support the amendment by Mr IP Kwok-him because the other amendments involve the perspectives of the consortia and employers. Thank you, President.

MR SIN CHUNG-KAI (in Cantonese): President, Mr James TIEN said just now towards the end of his speech that a free market would influence the position or direction of a newspaper, but under the circumstances in Hong Kong, it is, in fact, not that easy to exert such influence. As he also mentioned earlier, the major media all have a big boss behind them and many of these big bosses — with the exception of the bosses of a couple of newspaper — have other businesses and these other businesses are much bigger than the media business. For instance, for a television station which has operated in the red for decades, there are still people willing to bear the loss, and this is indeed not in line with the principle of commercial operation. Since this is not in line with the principle of commercial operation, why do they continue to run this business? Obviously there are some political purposes to serve. Therefore, in Hong Kong's media ecology, the

operation of a media business is not purely a business act, and there are actually many political activities and even political wrestlings behind it.

In their speeches earlier both Mr LEUNG Che-cheung and Mr NG Leung-sing attributed the lower media credibility to the abuse of freedom of the press. Of course, the media people or professional journalists consider this the result of suppression of freedom of the press. In this connection, Mr IP Kwok-him stated in his amendment that "in recent years, the reporting practices of individual media organizations, including defiance of facts and disregard for the law, have also been called into question to the detriment of the credibility of news media". Mr LEUNG Che-cheung even cited his own experience as an example while pointing out that the media involved is *Apple Daily*.

In fact, with regard to the contents of the amendment proposed by Mr IP kwok-him, they still apply if I substitute "individual media organizations" with the names of other newspapers. For instance, if it is substituted with *Ta Kung Pao* and *Wen Wei Po* which were mentioned by Mr WU Chi-wai earlier, the wording of the amendment will be changed to "in recent years, the reporting practices of individual media (*Ta Kung Pao* and *Wen Wei Po*), including defiance of facts and disregard for the law, have also been called into question to the detriment of the credibility of news media", and his amendment can still apply. So, I am actually canvassing votes for Mr IP Kwok-him but in vain ... As we all know, what is happening in Hong Kong now is very sad, and our media is subject to manipulation by various sides. Mr LEUNG Che-chueng said that he was smeared by a newspaper but on the other hand, we on this side have often been smeared by many more newspapers, and we are smeared for "N times" more often than they are.

President, when I read this motion, my first impression was: Here it comes for debate again. It is very sad that for the past decade since 2003, I cannot even count clearly for how many times this type of topic has been debated in the Legislative Council. But I think that what Mr Alan LEONG has done is most correct and very good. The reason is simple. Because we think that the media is now in the worst situation for the past decade, and it is only reasonable to raise this issue for discussion when the situation is at its worst. However, I feel even more concerned that the adversity now faced by the media may be like a popular saying nowadays: "This is not the worst yet, for it may be worse." I think this motion debate proposed by Mr Alan LEONG today is not the last debate on this type of motion because the pressure coming from various sides, especially that

from the Mainland or Beijing Government, and the pressure from the SAR Government, as well as their suppression of the media, have made journalists and Hong Kong people angry.

We have cited many examples today, such as the Government taking the lead to deter news editing and reporting by online media. The Government has not only failed to promote the safeguarding of freedom of the press but even hindered freedom of the press or suppressed freedom of the press by various administrative means. This is not something that an open government should do. Hong Kong always compares itself with Singapore. Hong Kong people do not have the right to vote ... or have only a small right to vote as we can elect half of the Members in direct elections, but we do not have the right to elect the so-called Premier, Prime Minister or President. Yet, the people of Singapore can elect their Prime Minister. Having said that, we understand that the media in Singapore is also under a lot of criticisms and there is often little room for expression of views by the opposition. As for many other Southeast Asian countries, such as Cambodia, and so on, their opposition parties actually have to rely on the new media to express their views.

Therefore, I would tender a piece of advice to the Beijing Government or the SAR Government. The suppression of freedom of the press can actually produce counter-effects. The stronger the pressure, the stronger the resistance, particularly as an increasing number of new media has emerged in Hong Kong or places around the world and members of the public can hence have access to more channels and means for expression of views than in the past. Nowadays, people holding different views who wish to express their opinions do not merely rely on newspapers and television stations as there are now online radio stations and Facebook or other new media. All these are ways to disseminate information and manifest freedom of speech.

Safeguarding editorial autonomy is an important cornerstone of freedom of speech. We must rely on a group of professionals who stringently uphold professional ethics to provide the general public with correct and impartial information. We support Mr Alan LEONG's original motion, as well as the amendments proposed by Ms Claudia MO, Mr James TO and Ms Cyd HO. As for the amendment by Mr IP Kwok-him, we certainly consider it unacceptable because the contents of his amendment are biased, and I have already explained this point earlier.

PRESIDENT (in Cantonese): Does any other Member wish to speak?

MR CHARLES PETER MOK (in Cantonese): President, I am very grateful to Mr Alan LEONG for proposing this motion. The freedom of the press and editorial autonomy in Hong Kong have been eroded to an unprecedented extent. The many methods and strong efforts used to suppress the media are becoming prevalent. To borrow a jargon from the SAR Government, a "multi-pronged approach" is adopted "on all fronts".

Motions relating to the subject of freedom of the press have been debated a number of times. Last June, I moved the motion on "Safeguarding freedom of information, of the press and of the Internet", which was passed unanimously at the time, yet the pressure was not so intense back then. So, let us see how we fare tonight. At this very moment, the hand suppressing the media is no longer exerting influence behind the screen, for pre-emptive strikes are launched, one stronger than the last, to shake up non-docile media agencies.

The senior management of newspapers exerts remote-controlled pressure on editors, requiring them to withdraw articles and alter sensitive words in their commentary. Commentators will receive lawyer's letters, and if they do not submit, their boss will intervene by replacing the chief editor. Otherwise, they will find someone to burn the newspapers, break the glasses of persons concerned, intimidate them by placing a knife at the doorstep of their homes, or beat them up on the streets. When all these tactics fail, they will use the ultimate strike. As many colleagues have mentioned today, these media organizations are after all business enterprises, so the authorities need only ask advertisers to withdraw their advertisements from the newspapers to "dry up" the source of income of the newspapers and let these newspapers die in the natural course.

It seems that Hong Kong will very soon be turned into a city "ruled by the voice of one man alone", which is the "single-hearted Hong Kong camp" as mentioned by CY. If famous commentators of radio stations are too critical, they may be kicked out, and if they cannot be kicked out, they will be transferred to another programme, so that they will not be hosting phone-in programmes. The Headliner ("頭條新聞") is too outspoken, so it is aired on the television station only famous for showing vampire series. When the interviewer of a television programme is too straightforward in an interview, the interviewee will

write to complain the interviewer. By all accounts, the press as a whole, from the senior level to the front-line workers, has gradually felt the tightening clutch from of the invisible hand.

The editorial autonomy of news media is subject to vigorous suppression on various fronts. News media on the Internet have seized this opportunity to extend their coverage, establishing a platform for independent reports and different views for the public when the conventional media in Hong Kong is held captive to the "harmony-first" mindset. However, it is no easy task to do news reporting outside the mainstream media, I thus agree with a point in Mr James TO's amendment about "fairly treat various media organizations, and protect journalists' safety in news reporting".

It is stipulated in Article 19 of the International Covenant on Civil and Political Rights of the United Nations that everyone shall have the right and freedom to impart information. The United Nations Human Rights Council has pointed out that member states should attach importance to and encourage the development of independent media and multimedia. However, as seen in the question raised by me today, a lot of Internet media have expressed concern that the Government is constantly tightening the news reporting restriction on Internet media, and it has not even made any liberalization, so reporters of these media organizations are often disturbed when they work at the front line. Yesterday, I met with reporters with friends from online media. Many of them were disturbed by the Information Services Department when they covered official events. The reasons for interruption varied from event to event, which were quite subjective. The authorities had offered different reasons at different events. At one time, it was because there were not enough places, and at another time, it was because those reporters were not from mainstream media. Even if reporters were from mainstream media, they would be denied entry for other reasons, such as failure to do registration. In gist, they will be led off course so that they cannot cover the event.

During the question time today, I could not put forth too many arguments, so I will now cite an example to illustrate my point. Independent media organizations had been denied entry repeatedly to cover the official events, including the Summit on District Administration and Public Forums on population policy. Once when Secretary Paul CHAN visited North District to conduct consultation, journalists were "ordered" not to raise any question even

though they were allowed to enter the venue to cover the event. The situation varies from event to event. In the case of social movements, front-line journalists from SocRED and USP are often treated as protesters by the police without any explanation and they are driven aside. As in the event when the Chief Executive conducted consultation in Kwun Tong district, they were blocked and driven aside time and again. As for Delight Media Hong Kong, it had been denied entry by the Central Government Complex on the grounds that it was not a mainstream media organization. If an online media organization is denied entry to the event venue because it has not registered, it is very unreasonable. Worse still, as I said this morning, the PassionTimes which had registered a year ago was also denied entry. May I ask the Government of the criteria it adopts in defining media organizations, deciding which organizations it is willing to have dialogue and which organizations to be granted entry to event venues? Are all online media organizations been blacklisted? What is this? This is screening.

In my view, the way the Government treats online news media organizations is precisely the epitome and reflection of the Government's attitude towards the media. For organizations which are willing to co-operation, the Government will give favourable treatment, but for those which make unpleasing comments, it will exert suppression. Many Members speaking today have mentioned their concern about *Ming Pao*. I once worked in *Ming Pao* for six months or so. Though I was not a staff member of *Ming Pao*, I worked in the parent company of *Ming Pao* in 1995 and set up a website for them. So, I have some special feelings about *Ming Pao*, and they seem like my family.

Today, an overseas media organization asked me what the problem was with the replacement of the chief editor by the boss of *Ming Pao*. I only told him that nearly all front-line staff of an organization — particularly a media organization — front-line journalists, some 300 former staff members, incumbent columnists and numerous readers and the public considered the act problematic, and only the boss considered the act alright, and then I asked him whether he would consider it problematic then. I think there is a problem.

With these remarks, President, I support Mr Alan LEONG's motion and the amendments by Ms Claudia MO, Mr James TO and Ms Cyd HO. Thank you, President.

PRESIDENT (in Cantonese): Does any other Member wish to speak?

MR LEUNG KWOK-HUNG (in Cantonese): President, time flies, and in the blink of an eye, 10 years have passed. Ten years ago, there was the 1 July March. The atmosphere then had fuelled fears of the influence of the media in the Communist Party of China (CPC). Later, Mr WONG Yuk-man of this Council, who had been intimidated, fled to other places, and since his family members were also affected, they fled to a remote place together. Another former Member of the Legislative Council, Mr Albert CHENG, whose nicked name is "Taipan", had the same experience. It is nothing new. In the past, it was carried out by the media, and since the media has failed the task, they have to do it themselves. Now that the media has given in and the readers do not know exactly what is going on, the incident will run its course.

In fact, Hong Kong people are very forgetful. What is so surprising after all? The most disgusting thing has already happened. They are saying, "it is self-explanatory", "the person knows it at heart" and "the person knows he himself is in heavy debt". Really, they will say anything by all means. Mr SIN Chung-kai, there is nothing new today, is there? I think there is nothing new. The practice these days is far more civilized than that of the old days. They will first purchase the property right, and then they will stay low for a long time. They will appoint a large number of pro-CPC persons to write articles under the rotation system or the appointment system. In times of emergency, certain person will write an article. It is comparable to players of football teams in the England Premier League, when their turns come, they will do the writing. In quiet times, they will write some objective articles. I have been subject to "筆姦" (bat7gaan1) (meaning abuses in print) — I am not referring to the character "耕" (gaang1) in the term "筆耕" (bat7gaang1) (meaning writing articles) but the character "姦" in the word "強姦" (keung5gaan1) (meaning rape) — published in *Ming Pao* on innumerable occasions. In the case of the five constituencies referendum, they seemed to know all the secrets in the global political arena. They acted as if they were the roundworm in my stomach, knowing what I was thinking about and published in articles. There is a column named "Scribbling the sound of wind" (《聞風筆動》) and the writer should be called "Prophet LEE" ("李先知"). Prophet LEE is an irresponsible hypocrite. I have been treated badly by him many times, but I still have to defend him today. Why? I am not defending the newspaper, but the staff of the newspaper. This newspaper used to be dubbed the most credible newspaper, but this reputation has withered now.

But still, staff members of the newspaper insisted on guarding this land, so I cannot but support them. I have no personal grudge with them. I am only rebuked by the newspaper in its columns, and I will simply dismiss it with a laugh. After all, I think the newspaper is suffering from split personality, for I have been invited to write a column for the newspaper on every Sunday, yet I was rebuked in an interview of the newspaper. How is it possible?

What has happened today? The cat is being let out of the bag. It is obvious to all that the battle on "political reform" is at its height. There are a few scenarios in Hong Kong — President, will you look at me — some newspapers have long since been acquired and are now run by the CPC. President, I have already talked about that. In the case of certain news agencies, after the work is completed by staff members, several persons will be reading the proof and the headlines in a room. President, your brother used to work for that newspaper, that is, *Ta Kung Pao*, so I guess he definitely knows that practice. An unknown person, or sometimes a famous person coming to Hong Kong from the Mainland, will screen which materials can be published and which not. At editorial meetings, the focus of discussion is on who should and who should not be the targets of attack. Death is certain when news reporting is carried out in such a manner. Yet, it is nothing new.

In the book "1984", George ORWELL stated clearly that "'Big Brother' is everywhere" and "'Big Brother' is watching you". President, now that the situation in Hong Kong is even worse, for the Chief Executive has also intervened. When he finds one refusing to comply, he requests businessmen not to place advertisements in that newspaper. When he fails to kill that person, he tries to starve him to death. Right? When he fails to knock the person down in the boxing ring, he makes him suffer from hunger, so that when he enters the ring again, he can knock him down with a single blow. This is what LEUNG Chun-ying is doing. A thorough investigation must be conducted into such conduct of his, otherwise, it will be doing a disservice to us. First, he had refused to answer my questions about his company incorporated in the British Virgin Islands (BVI) for four times. Buddy, now even President XI Jinping has ordered a thorough investigation into this. Mr Kenneth LEUNG, come and think about this, can a member of the Politburo Standing Committee set up a BVI company? Yet, you can tell him not to worry, for I will never do business with China. Such remarks are merely a waste of time.

President, the integrity of LEUNG Chun-ying is indeed bankrupt. A person fears the media for he has been weaving a web of lies, and he has no way to prevail upon the media. Now, he hates the media. He tries to take advantage of the confusions in the present battle to deceive his supervisors and conceal this from the public. Once again, he suppresses the media in Hong Kong. This time, even his half-comrade — *Ming Pao* — is not spared. Right? SHIH Wing-ching has not done so much a disservice to him, but still LEUNG has to wipe him out. President, today, we are discussing how *Ming Pao* is subject to pressure, yet Buddy, TIONG Hiew-king is palpably a businessman, and he merely regards *Ming Pao* as a side business, or a side dish, where his interests in the Mainland are of the highest priority. We understand this. How stupid it is that people working there do not understand this. Chief editors, buddies, why complain then?

At issue is that the incident involving LEUNG Chun-ying should be investigated. Otherwise, it will be a laughing stock. The First Estate is trampling on the Second Estate, that is, Members of the Legislative Council. When we ... I better not say too much, otherwise, Ms Emily LAU will scold people later. Now, he has intervened in the Third Estate, right? He ordered legal officers to claim that the issue was of legal nature to the public, yet it was revealed subsequently that it was a political issue. As for the Fourth Estate, I really hope that he will give due respect to the Fourth Estate. Secretary Raymond TAM, you might as well do the job of calling advertisers not to place advertisements with various media organizations, for in that way, LEUNG would not be held responsible. I think the debate today in this Chamber is a waste of time, for we will not find out the truth of the shameful act of LEUNG Chun-ying, nor will we find out when he said he would not attend the opening ceremony of the Marathon. President, do you agree with this? What you say is always correct and I will not refute it. Time is up, right? You are going to stop me speaking. *(The buzzer sounded)*

MR KENNETH LEUNG (in Cantonese): Mr Alan LEONG has proposed this motion in response to the recent incident involving the replacement of the chief editor of *Ming Pao*.

According to the Public Opinion Poll of the University of Hong Kong, since 2009, there has been an average of close to half of the interviewees believing Hong Kong's news media have exercised self-censorship. In a report

of the Reporters Without Borders, the press freedom index of Hong Kong has dropped from the 54th to the 58th, lagging behind some developing countries like Namibia, Ghana and Suriname. Hong Kong is a first-class cosmopolitan city and economic city, we must defend our freedom of press and freedom of speech.

Some time ago, some bloodshed incidents occurred. In the "LEUNG Tin-wai incident" and "Albert CHENG incident", we saw heavy drawing of blood. Recently, a number of veteran and influential journalists have been transferred to posts outside the mainstream media. First, Sam NG was not granted a contract renewal by Radio Television Hong Kong, then the current affairs programme hosted by LI Wei-ling was rescheduled to the evening slot, and then came the resignation *en masse* of the whole team responsible for the section on "獨眼香江" of the *Hong Kong Economic Journal* led by YAU Ching-yuen. Now, it is the replacement of the incumbent chief editor of *Ming Pao* by a Malaysian not well-versed in Hong Kong affairs. Recently, advertisement orders have been withdrawn from a number of newspapers on the possible cause of their political stance. Many friends in the pro-establishment camp say that these are business operations and newspapers are business organizations despite their social responsibilities. Is newspaper purely a business undertaking?

I have read some study reports recently. Take the detailed report of Duke Conference on Nonprofit Media published by Duke University in 2009 as an example. The study analysed the possible modes of operation of newspapers. Of course, the report was focused on the situation of newspapers in the United States. The influence of newspapers on society is extremely significant, and newspapers have to fulfil their obligation to society. Between business consideration and social obligation, which one should be accorded a heavier weighting? Apart from general business operation, a news agency, being a listed company, may operate in other modes, including the private foundation mode and the charitable fund mode. If the Hong Kong media is really facing such heavy pressure, we may make use of the new media to uphold freedom of the press. In fact, if anyone is sincere in newspapers publishing, he may set up a newspaper agency via a private foundation or charitable fund. I have a very comprehensive report at hand, and if colleagues would like to have a look, they may borrow it.

Moreover, friends from the business sector say that the case bears no relevance to them, for the change of bosses and chief editors is something most

normal in a business organization. However, have they even thought about that freedom of the press and freedom of information is of the utmost importance to Hong Kong which is an economic city and a commercial city? Without freedom of the press and freedom of information, it will be impossible to carry out any transactions or reaching any deals, or either party in the deals may suffer great losses in the transaction. Why? I do not wish to dwell on the academic theory, yet I have to quote the famous theory of Joseph STIGLITZ, the Nobel Laureate in Economics in 2001. It is his theory on information asymmetry. In a transaction involving two parties, say a transaction between you and a Chinese enterprise, the Chinese enterprise has access to all the news information, good and bad. But you are ignorant to the unfavourable reports, for you have only read the "everything-is-good" reports covered in newspapers, stating the proposals are feasible and viable. So when you and the Chinese enterprise enter into a transaction, you may suffer great losses as you continue with the transaction due to your ignorance while the Chinese enterprise has all the information. For a commercial city, freedom of the press and freedom of information is an extremely precious resource. If we do not have such freedom, this economic city can hardly operate. Therefore, we should not often focus on economic benefits and overlook the freedom of press and freedom of information. It is definitely unreasonable.

Earlier on, some colleagues from the pro-establishment camp asked: What is the correct mode of operation for a news media organization or public broadcaster organization? I can tell Members that the British Broadcasting Corporation (BBC) is an extremely successful public broadcaster, which is not subject to any political and commercial influence. A public broadcaster in general operates under a public trust fund, where the funds come from groups and the public. Why would BBC have an abundance of funds? Because the British Government charges every British citizen with a television £145 per annum, and the funds ensure that the BBC will have sufficient capital to fulfil its broadcasting functions in education, news and entertainment, and so on, so that it will not be affected by political intervention and commercial pressure. At present, the BBC is an extremely outstanding media which is running television and radio broadcasts as well as electronic publications.

I will only talk about the amendment by Mr IP Kwok-him. He said that "in recent years, the reporting practices of individual media organizations, including defiance of facts and disregard for the law, have also been called into question". In fact, I have also suffered at the reports by certain leftist

newspapers. One such newspaper had mistaken that an article written by a man surnamed YEUNG was written by me, and the newspaper had to make an open apology subsequently. Recently, the newspaper called me and my friends as wretches, but these "wretches" get the opportunity to speak here. Regarding the amendments proposed by a number of Members, I will support the amendments by Ms Claudia MO and Mr James TO, in addition to Mr Alan LEONG's original motion.

President, I so submit.

PROF JOSEPH LEE (in Cantonese): President, today, many Members have talked a lot about issues related to newspapers and freedom of press. In my view, the theme of the motion proposed by Mr Alan LEONG today is freedom of the press. According to the report of a newspaper recently, the "Global Press Freedom Ranking 2013" stated that the status of freedom of the press in Hong Kong has changed from "Free" to "Partly Free". It is a big regression, which is really worrying. I think the discussion today should not be on the incidents of individual newspapers, for since the reunification, it is obvious that there is a big problem with the overall freedom of the press in Hong Kong.

What is freedom of the press? I think Members in the Chamber all know that freedom of the press usually means that the Government will protect the speech of local citizens by means of constitution or relevant provisions in law, so that they can enjoy freedom of association, publication, gathering news and reporting news. This is nothing new. Let us not look at the situation overseas but focus on the local situation here. Article 27 of the Basic Law stipulates that Hong Kong residents shall have freedom of speech, of the press and of publication; freedom of association, of assembly, of procession and of demonstration; and the right and freedom to form and join trade unions, and to strike. Article 16 of the Hong Kong Bill of Rights states unequivocally that Hong Kong people have freedom of opinion and expression. It states that: "(1) Everyone shall have the right to hold opinions without interference. (2) Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.". It is evident that these laws have already been put in place in Hong Kong, but the many incidents in the past caused many media organizations in Hong Kong to lose their functions as the Fourth Estate.

During the visit of the former Vice Premier, LI Keqiang, to Hong Kong, the media were obviously subject to violent treatment. During my tenure as the Vice-Chairman of the Independent Police Complaints Council, I noted the occurrence of these incidents and the many complaints so arisen. The storm involving the news division of ATV is still fresh in my memory. In 2011, an Administration Officer parachuted into Radio Television Hong Kong (RTHK) to take charge of it. This had stirred up a hornet's nest, prompting queries about whether RTHK would enjoy editorial autonomy anymore. We are still doubtful about that.

In 2011, the chief editor of an English newspaper, the *South China Morning Post (SCMP)*, was replaced by a delegate of the Chinese People's Political Consultative Conference of Jilin Province. The *SCMP* has been turned red, and it is not news to Hong Kong people. In 2012, Joseph LIAN Yi-zheng wrote a commentary in the *Hong Kong Economic Journal (HKEJ)*. The commentary aroused a great controversy and made him liable to the charge of defamation. The *HKEJ* seemed to take a "kneeling" stance and put up no defence. The Legislative Council also discussed the incident back then. In 2012, LEUNG Chun-ying proactively enquired with *Ming Pao* about the unauthorized structure incident. We have seen all these incidents. In the past two to three years, why have so many such incidents occurred?

Moreover, this year — sorry President, it should be last year instead of this, really, time flies. In 2013, a number of government departments inspected the Oriental Press Centre. In the end of 2013, which has just passed, there was the replacement of chief editor of *Ming Pao*. Not long after that, in 2014, we heard of the withdrawal of advertisements from *am730* and *Apple Daily* by advertisers. Some colleagues may say that it is business operation. I must point out that advertisements are certainly important to a newspaper, but on the other hand, it is also important that different points of views can be expressed in a newspaper. Hence, it is extremely important whether the Government is willing to enact a law to stipulate that the role of the Government is to monitor and examine if freedom of the press is subject to suppression of different forms at present.

Therefore, in the present discussion on the *Ming Pao* incident, I think we must discuss the point whether Hong Kong has now become a "Partly Free" region, as it is so stated under the Global Press Freedom Index 2013 which I mentioned in the beginning of my speech. President, I am gravely worried, having seen the situation come to this poor state. We are very much worried.

In 2014 and 2015, Hong Kong may become a "Not Free" region, and people will no longer report whether we enjoy freedom of the press in Hong Kong.

So, with regard to the present incident, both the Government and the relevant media organizations have the obligation to come forward to clarify whether they have suppressed freedom of the press for various reasons, preventing freedom of the press from being protected in Hong Kong. Therefore, I will support the original motion and other amendments but not Mr IP Kwok-him's amendment. Thank you, President.

MR IP KIN-YUEN (in Cantonese): President, the incident involving the Hong Kong Institute of Education (HKIEd) occurred in 2007 when I was teaching in the HKIEd seven years ago because a government official was unhappy with me and wanted to dismiss me. This is, the so-called "HKIEd storm". Why would a call for the dismissal of an employee have turned into an incident? It was because the public concern aroused in the wake of the reports by the *Hong Kong Economic Journal* and *South China Morning Post* resulted in intervention by the Legislative Council and the Government where hearings were held subsequently. This was why the incident became a major event catching public attention.

After the incident, I deeply felt that if not for the intervention of the news media at that time, the incident would simply end up like "beating a dog behind closed doors". Anyone could be punished with the community not noticing it and there would not be any problems. As everyone knows, freedom of the press is very important, but how important can it be? The incident involving the HKIEd has given me a deep and personal understanding and made me realize that the work of the Legislative Council, the independence of courts, freedom of speech, freedom of the press and academic freedom are inseparable. It was precisely for this reason that I thought I should join the Legislative Council when I realized the need to do so for the sake of vigorously safeguarding freedom of the press and all sorts of freedom because they actually belong to the same family.

Witnessing various cases — As pointed out by a number of Members just now, during the past decade after the reunification, we have seen freedom of the press being eaten up constantly in various ways and this has never stopped. Recently, the situation is getting worse. We have seen the transfer of a well-known and critical host from the programme originally hosted by her; the transfer of a chief editor from his post; and the withdrawal of advertisements

from a newspaper for its "disobedience". Things like this are absolutely unusual. We find all of these particularly heartrending. Why do all these problems occur one after another at this particular time? We cannot help asking this question: Has freedom of the press come to an end?

On hearing the news of the transfer of the chief editor of *Ming Pao*, the editor of another newspaper sent me a short message describing the incident as "the last straw". His remark was very sad and emotional. This situation is chilling because what makes Hong Kong so different from other places is its freedom of the press and all sorts of freedom. Hong Kong would be no longer Hong Kong if our newspapers and media were to report in an "obedient" manner and make pleasant comments only.

Freedom of the press has always been a core value in Hong Kong, one in which we have always taken pride. Although Article 27 of the Basic Law provides that Hong Kong residents shall have freedom of speech and of the press, the World Press Freedom Index released by Reporters without Borders reveals that Hong Kong's ranking has dropped from the 18th in 2002 to the 58th in 2012. This is horrible. I believe our ranking after this year will fall even harder. Who will stand to benefit from this?

As a representative of the education sector, I would like to say a few words about the significance of freedom of the press to schools, teachers and students. While students were encouraged to read newspapers to train their reading ability in the past, they are now encouraged to read newspapers to improve their competence in liberal studies, which is founded on two key points: First, to know the facts; and second, to get to know different points of view. We will really be worried if these two requirements cannot be met.

In the past decade or so, schools have become increasingly sensitive to current affairs, and there are "campus television" and "young reporters" in many schools. All sorts of training have managed to enhance the sensitivity of students to current affairs. After gaining so much information, many students have expressed an interest in becoming reporters in future. However, if a crisis like the one hidden behind the incident involving *Ming Pao* occurs, a boss might not be able to hold on due to financial pressure. Such being the case, I believe we have to consider whether we as teachers or students should continue to support a newspaper which can no longer provide us with facts and abundant points of view.

For instance, although we do not know whether or not the report carried in *Ming Pao* today about the ownership of a company in the British Virgin Islands by the son-in-law of WEN Jiabao is true, it will still be a great loss to Hong Kong if such reports can no longer appear in any of our local newspapers. Is Hong Kong still Hong Kong if journalists here dare not report such news or are reluctant to do so? Hence, I think that the Legislative Council has a sacred mission of safeguarding freedom of the press. If freedom of the press is lost, the power of monitoring the Government will likewise be lost. I so submit.

DR FERNANDO CHEUNG (in Cantonese): President, Mr IP Kin-yuen said he felt strongly about the impact of the media or freedom of the press on him. I think freedom of the press is enormously helpful to me, too. Had there not been powerful media organizations in Hong Kong willing to carry extensive reports on the unjust incidents in society, I think I might not have the chance to stand here today. As in my school, I am not welcomed by the management. In the absence of the media, I think I may have been subject to suppression long since like Mr IP Kin-yuen. Hence, I think I have a great responsibility to support Mr Alan LEONG's motion today. We must safeguard freedom of the press.

A few days ago, SHIH Wing-ching, an entrepreneur who speaks frankly and whom Hong Kong people know very well, attended an interview at a radio station. The subject of the interview was originally the property market, but they subsequently came to the topic of the replacement of the chief editor of *Ming Pao*. During the discussion on the reshuffle of *Ming Pao*, "Master Chi-Wan" asked whether *am730* would be the next free newspaper targeted for a fix. SHIH Wing-ching replied that it could not be more obvious and no guesses would be necessary. He went on to comment the other free Chinese newspapers, the *Headline Daily* and the *Sharp Daily*, saying the directions of the two newspapers were closer to the Central Authorities. As for the *Metro*, he said that the newspaper was formerly owned by a foreign-funded enterprise and had now been sold, and he believed the buyer might have some kind of relationship with the Central Authorities. SHIH Wing-ching said, "I should be the next in line."

He further explained that since November last year, a group of China-affiliated banks have suddenly ceased to place advertisements with his newspaper, and they included the Bank of China (Hong Kong) and the China Citic Bank; and he was assessing the relevant loss. At hearing that, I felt a chill down my spine. Come to think about this. SHIH is not a person who tells lies

blatantly, he is just a businessman. Yet, he has to voice out a claim about pressurization by the Central Authorities. Why such pressurization? He said the reason was simple, for Beijing had lost a number of times in the battlefield of public opinion, so it has launched a counter offensive now. What has happened actually?

In the past couple of years, a series of incidents took place in Hong Kong: the incidents involving LIAN Yi-zheng and YAU Ching-yuen in charge of the column "紀曉風'獨眼香江'" of the *Hong Kong Economic Journal*, the incident involving LI Wei-ling of Commercial Radio Hong Kong; and the incident involving NG Chi-sum of Radio Television Hong Kong (RTHK). As for the incident involving *Apple Daily*, there are reports by the *House News* that LEUNG Chun-ying refused to meet with the senior management of the Standard Chartered Bank for the latter had refused to withdraw its advertisements from *Apple Daily*. It was revealed that it was the wish of the authorities that the three non-China-affiliated banks in Hong Kong, namely, Standard Chartered, HSBC and the Bank of East Asia, would stop placing advertisements in *Apple Daily*, but the three banks had refused to comply. Bloggers of the *House News* pointed out that since the three banks had refused to heed the order, LEUNG Chun-ying ordered that government officials shall not attend the activities of the three banks, just like his conspicuous absence at the anniversary banquet of the Liberal Party led by Mr TIEN. As at the end of last year, these three banks had tactfully withdrawn their advertisements at the same time. They had cancelled all or reduced by a large extent their advertisements placed in *Apple Daily*. This arrangement continues to date and is not expected to cease in the first half of this year. According to sources within the banks, they admitted that the withdrawal of advertisements was not a business decision. What is happening?

Is the present discussion merely related to the replacement of the chief editor by a boss of Malaysian nationality of a certain newspaper? Is it just that simple? Why was Kevin LAU replaced at this moment? How many newspapers are now left to conduct some independent investigations pricking the nerve of the Central Authorities or our leaders? The answer is: very few. YAU Ching-Yuen of the *HKEJ* has to resign because of "Hexie Harmony". We are left with *Apple Daily*, magazines under the Next Media and *Ming Pao*. But now, even the chief editor of *Ming Pao* has been replaced. We are left with one single media organization then. We have to wait and see when the organization of Boss LAI will be subject to acquisition. But when acquisition or suppression

is not possible, they will resort to business tactics — the withdrawal of advertisements. SHIH Wing-ching is an entrepreneur of wide renown, yet he has also experienced such treatment. Would this not send shivers down my spine?

President, having heard all these news and seen all these scenarios, I cannot but tell my daughter, though only 18 of age, returning from her studies in the United Kingdom that the situation in Hong Kong is worrying. I think there will be tremendous conflicts in future. The constitutional reform will be a bitter battle. On one side, there is the Occupy Central movement, and on the other side, there are the Central Authorities and that Chief Executive LEUNG Chun-ying. The conflicts in future will depend on public opinions to a large extent, yet the hand intending to manipulate public opinions has obviously been extended here. Hong Kong people should no longer tolerate such manipulation and intervention by the Central Authorities or the SAR Government. The existence of the Fourth Estate is to provide an extra point of checks and balances when the three powers cannot be clearly separated. Power corrupts, and absolute power corrupts absolutely. Therefore, there must be checks and balances, and there must be independent media organizations to safeguard freedom of the press and editorial autonomy (*The buzzer sounded*) ... I so submit.

PRESIDENT (in Cantonese): Does any other Member wish to speak?

MR PAUL TSE (in Cantonese): President, I turned 55 yesterday and learnt that *Ming Pao* is actually as old as me. Ever since I was intellectually better developed, I have all along read this newspaper and have never stopped doing so. Moreover, for three or four years, I have been writing a column for *Ming Pao* seven days a week, so I have some sort of emotional bond to it.

Before talking about the subject matter of the debate today, I wish to talk briefly about some of my observations. First, many people levelled the criticism that the boss should not find someone of his ilk from an overseas country and let someone who does not have any experience in Hong Kong or any recognition to work as the chief editor. However, when I thought about the past, I remember clearly that when *Apple Daily* started its Taiwan edition back then, Mr IP Yut-kin was dispatched from Hong Kong to work as the chief editor in Taiwan and my

friend, WONG Wai-man, also went there to work as a "pioneer". However, at that time, this was not strongly criticized in Taiwan and there was no criticism querying why a Taiwanese had not been appointed the chief editor and instead, a close aide had to be dispatched from Hong Kong to take up the post there.

Second, there is another matter that can be described as open and common knowledge and be it the people who work in *Apple Daily* or the Next Media Limited or friends who have paid some attention to the operation of the Next Media Limited, they all know full well that before Mr Jimmy LAI had become fully committed to the development of his business in Taiwan, every day, he would go to the newsroom personally to give instructions and the headings, photos or the direction of news coverage were all controlled by him, and this is an undisputed fact. In view of this, why are we criticizing what has happened in a certain newspaper with such great concern?

In saying so, it does not mean that I do not support the employees of *Ming Pao* in campaigning for greater scope and maintaining their professional standard and editorial freedom as far as possible. However, ultimately, the reality remains the same, so at the end of the day, we cannot always judge all matters with double standards. If we look at the country that boasts the greatest freedom of speech in the world, the Fox TV News also once criticized OBAMA strongly for showing favouritism, claiming that he had accepted the invitations for interviews by all television stations but was unwilling to accept that of Fox, thus making it evident that he was unwilling to co-operate because of their different political stances. If I remember it correctly, Mr Louis CHA once made the well-known remark that the essence of editorial autonomy is that the boss has editorial autonomy, so it can be said that he spelt this out very clearly.

This is precisely the point. Are we talking about the kind of autonomy involving the relationships among the boss, the management and the professional editorial staff within an organization, as raised by Mr James TIEN just now, or are we talking about having sufficient choices in society as a whole, so that members of the public in various segments, with various political views, positions and orientations can choose the political positions or spectrums that they like or think they are more closely aligned to, or even neutral news coverage that they like to read? So long as there are sufficient choices in the market, there will be sufficient freedom of speech and the issue of the boss or the management of each newspaper having to give up its administrative purview will not exist. Failing this, it is not genuine and realistic freedom of speech. Anyway, it is not

impossible to impose restrictions in law. For example, restrictions on newspaper licensing were also at one point imposed in Taiwan to prohibit the publication of certain newspapers and some newspapers were also subjected to certain restrictions. So long as the situation has not come to such a pass, concerning the so-called threat to or suppression of the freedom of speech, I am afraid we need to look clearly at what has happened from a slightly more realistic perspective.

In particular, in respect of newspapers, although I strongly oppose imposing additional licensing restrictions and support issuing more licences to the electronic media, be it television stations or radio stations, it is true that newspapers and magazines in Hong Kong are not subject to tough restrictions in terms of the entry threshold, unlike television stations or radio stations, as it is not easy to launch the latter in terms of investment and licensing. In contrast, launching a newspaper or magazine is very easy. So long as someone has such an aspiration, this can be done immediately. Moreover, this applies to both newspapers with wide circulation or *Passion Times* that can be found nowadays. Furthermore, with the advent of the Internet, various kinds of Internet media have emerged now and in fact, so long as one wishes to, one can gain a foothold in the mass media. In these circumstances, I believe it is really difficult to suppress the freedom of speech, particularly in the situation in Hong Kong.

However, we also understand that in reality, so long as matters of financial strength or the muscles in certain areas are involved, be it large corporations, crucial resources or even media organizations, financial considerations will naturally take precedence and this will lead to the emergence of certain situations or shifts in some sectors. Maybe Hong Kong is facing such a movement of plates. Therefore, many companies in Hong Kong, be it those in the real estate sector or large corporations, are constantly facing the prospect of being acquired but this is only what happens in times of plate movement, so there is really no need to speculate too much or worry that Hong Kong would lose its freedom of speech, unless one day, we really do not have any more choices.

Of course, I absolutely oppose any move of suppressing the freedom of speech. However, in the final analysis, the reality is stark and we have to understand and know what we are talking about. Even in respect of the withdrawal of advertisements, I remember that CHOW Yun-fat was once a very sought-after endorser but a single scandal can result in many clients withdrawing advertisements featuring him immediately, so the withdrawal of advertisements is

also a business reality. I hope Members will not make an issue of this. Meanwhile, it is only necessary for us to truly attach importance to the ethics and professionalism of all newspapers and media organizations and maintain the standards in this regard and we will find that there are readers and supporters as well as room for survival. In contrast, if we undermine our own position by destroying the credibility of newspapers and magazines, our choices will also be destroyed one by one. In that event, the freedom of speech and the market in Hong Kong will also be compromised. I think this is an even more important consideration.

President, I so submit. Thank you.

PRESIDENT (in Cantonese): Does any other Member wish to speak?

MR ALBERT CHAN (in Cantonese): President, Hong Kong's editorial independence and autonomy has in fact been disappearing gradually since the return of Hong Kong's sovereignty to China in 1997. The most obvious piece of evidence is the news report programme produced by Television Broadcasts Limited. Besides, the news reports produced by Asia Television Limited have become rather biased after its major shareholders have changed a number of times. Eventually, the ownership of the *South China Morning Post* was also changed. Basically, many media organizations are sold to large consortia and this is attributable to the biased government policies concerned. One example is the Metro Broadcast Corporation Limited, for we all know that it is in the hands of the LI Empire. So, the editorial autonomy of Hong Kong's communications media has actually vanished a long time ago.

To many pan-democratic Members, some of the local newspapers have already become their mouthpiece, banging the drum for them for quite some time in the past. As radical democrats, we have profound feelings about this phenomenon. This is because these newspapers, which claim to support the pan-democratic camp and democracy, have been unceasingly smearing us radical democrats, suppressing our voices and distorting our image over the past years. I can still remember very well that in the evening when the 2012 Legislative Council Election exercise was in the process of counting the ballot papers collected, I reprimanded Jimmy LAI for acting as the largest campaigning team of the CPC, as he had been using the media under his control to preach his

political ideology. He had used his own liberty to suppress his political rivals, including people like us who are considered as radicals by others. So, we can now see many pan-democrats voicing out vigorously their support for *Ming Pao*, for *Ming Pao* has been acting as their parties' newspaper over the past years.

I can recall that a few years ago the host of a radio programme made distorted reports of some of my actions, and that eventually caused me to lodge a formal complaint with the Broadcasting Authority. My complaint was subsequently found valid. However, through out the entire process, nobody came forth to speak in support of me. Hence, President, I find the motion today rather ironical. Nevertheless, despite the fact that other media organizations have suppressed radicals like us and distorted our opinions, I will still strive for the independence and autonomy of *Ming Pao*, the *Hong Kong Economic Journal*, Commercial Radio Hong Kong and Radio Television Hong Kong, as this is the foundation stone of a free and democratic society.

However, in talking about the independence of media, we have to look at the issue of how media's controlling stake is determined. It is just futile to talk solely about editorial independence without dealing with this issue. From the controversies arising from the acquisition of the *China Times* by Want Want Holdings Limited in the past couple of years, we can see the importance Taiwanese have attached to the autonomy and freedom of their territory and the media operating within their community. If we look closely at the provisions relating to the separation of media and investors, we can see that during the campaign against media monopolization staged in those years, Taiwan has put forward a very important proposal, which is the requirement that other operating organizations should hold no more than 10% of a media organization's share rights. This requirement has essentially prevented abuse of the public instrument, which is the media, to violate the autonomy of journalism. Under the relevant provisions, financial holding companies, banks, insurance companies, their responsible persons, the incorporated consortia funded by them or the trustees of such consortia are not permitted to hold more than 10% of the media's voting shares or capitalization.

This is a very important requirement. In Hong Kong, in contrast, I have made a rough investigation and found the following facts. *Ming Pao* is controlled by TIONG Hiew King, *Sing Tao Daily* is controlled by Charles HO, 72% of the *South China Morning Post*'s share rights are in the hands of the Kerry

Group Limited, and the *Hong Kong Economic Journal* is no doubt wholly owned by Richard LI in his private capacity. As for television companies, 72% of Cable TV's share rights are controlled by The Wharf (Holdings) Limited, NOW is wholly owned by PCCW Limited, while Asia Television's share rights are divided among a number of investors, with the majority of the share rights being in the hands of WANG Zheng, the managing director of a listed company in Shenzhen named Rongfeng Holding Group. Buddy, this is a company in Shenzhen! As for the Metro Broadcast Corporation Limited, its share rights are equally divided between Cheung Kong (Holdings) Limited and Hutchison Whampoa Limited. From all these facts we can see that the major media in Hong Kong are basically in the hands of large consortia, and editorial autonomy is in fact not present in such media organizations where the big bosses behind the scene are consortia.

We have no way to find out how some pan-democrat Members are related to these consortia. Indeed, some of the proposed amendments seem to be manipulated by PCCW Limited behind the scene, or at least they have given us such an impression. During the Legislative Council Election, many pan-democrat organizations received behind the scene donations for election expenses from certain consortia, yet they alleged us of accepting money from the CPC. These people are so shameless! Hence, if you really support editorial autonomy, you should bear the responsibility for what you do, rather than attacking political rivals with rumours, including (*The buzzer sounded*) ... criticizing others' political affiliations and people engaging in politics.

PRESIDENT (in Cantonese): Mr CHAN, your speaking time is up. Does any other Member wish to speak?

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Mr Alan LEONG, you may now speak on the amendments. The speaking time limit is five minutes.

MR ALAN LEONG (in Cantonese): President, I would like to thank the four Members for proposing amendments to my original motion.

With the exception of Mr IP Kwok-him's amendment, the amendments of other Members have enriched my original motion. I cannot but admit that Mr IP Kwok-him has made a canny amendment. Mr IP has not deleted any wording from my original motion, yet he has tactfully shifted its focus from the blatant manipulation of public opinion to the abuse of freedom of the press by the media, which he considered has prompted concern about possible impropriety in exercising independence and autonomy in editing and reporting, and thus editors and journalists of the media should be faithful to their duties. This amendment has blurred the focus of the original motion completely, so I cannot support it.

President, I also notice Mr IP Kwok-him stating in his speech that had Chief Executive LEUNG Chun-ying really been dictatorial, the unauthorized structure at his place would not have been uncovered by *Ming Pao*, resulting in a plunge in his popularity rating. What kind of logic is this? Maybe he is still angry about the report, or maybe he thinks that he would not have been in trouble had Kevin LAU not made the report about this unauthorized structure. It seems that he cannot even accept this approach of "mild criticism intended for rendering great help" in news reporting. Perhaps when I use the word "he", I am not only referring to LEUNG Chun-ying, but may also include the Central Authorities or people now in ruling positions.

There is another comment about the incident. It is queried that if Sir TIONG Hiew-king has made no intervention into *Ming Pao* in the past decade or so since his acquisition, will it be premature to judge at the present stage that the swift assumption of office by Mr CHONG Tien-siong will surely lead *Ming Pao* to take side and remain silent, preventing the newspaper from continuing to fulfil the functions of the Fourth Estate.

President, our debate here is not conducted in the absence of facts. Certainly, there are reports pointing out that Sir TIONG Hiew-king had staked wrongly on BO Xilai, so he had to sell out a newspaper with credibility to curry favour with President XI Jinping. That means Sir Hiew-king had no need to do so when he bought *Ming Pao* a decade or so ago.

As for Mr CHONG Tien-siong, we have learnt from many reports how Mr CHONG Tien-siong have been controlling the Chinese media in Malaysia, how they have sided with the ruling authorities, and how they have stifled the room for freedom of speech — some of the reports are made by journalists who have been

working in Malaysia for a considerable period. Hence, discussion on this question should not be conducted out of context.

It is even more necessary for us to support the front-line journalists and editors of *Ming Pao* — we got this blue ribbon from them this morning. It is due to their hard work over the years that *Ming Pao* has built up the credibility it enjoys today. Will they make groundless accusations?

I hope Members will support my original motion and vote against Mr IP Kwok-him's amendment.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, quite a number of Members have expressed their views just now on the protection of freedom of the press, the credibility of media, the protection of journalists' safety in news reporting as well as issues concerning Radio Television Hong Kong (RTHK). I hereby emphasize once again that the SAR Government is committed to protecting the rights enjoyed by the people of Hong Kong as specified in Article 27 of the Basic Law and that is: Hong Kong residents shall have freedom of speech, of the press and of publication. All along, the SAR Government has been fostering a suitable environment for the press sector to develop freely and robustly under minimal regulation. As for the dissemination of news by the Government, the principle of open communication has also been upheld to facilitate media reporting as far as possible.

Just now, some Members have talked about the personnel changes in some media organizations in recent years or the question of whether some advertisers would continue to place advertisements with certain media organizations. President, I would like to reiterate once again that the SAR Government will not and cannot interfere with the internal operations of news media, and we will never suppress freedom of the press. In our opinion, the personnel changes in individual media organizations and the decisions made by certain advertisers as mentioned by Members are merely internal affairs and commercial decisions of the organizations concerned. The SAR Government is aware that these incidents have aroused public concern. We believe the organizations concerned will handle the matters properly and give the public appropriate explanations.

Some Members have called on journalists to report news objectively and accurately in order to safeguard the credibility of media. The SAR Government concurs that credibility is a very important asset of every single news organization, and that every endeavour should be made by journalists to report news professionally and accurately under the principle of editorial autonomy.

Members have also mentioned that the SAR Government should protect journalists' safety in news reporting. The SAR Government has all along striven to safeguard the personal safety of members of the public and maintain good law and order situation in Hong Kong. Everyone is protected by the laws of Hong Kong and journalists are no exception.

Finally, as mentioned in the opening remarks, the SAR Government objects to the amendments proposed respectively by Ms Claudia MO and Ms Cyd HO because Ms MO's amendment contains some unreasonable accusations of the SAR Government, while the suggestions made by Ms HO in her amendment are unnecessary in our opinion.

I so submit. Thank you, President.

PRESIDENT (in Cantonese): Ms Claudia MO, please move your amendment to the motion.

MS CLAUDIA MO (in Cantonese): President, I move that Mr Alan LEONG's motion be amended.

Ms Claudia MO moved the following amendment: (Translation)

"To delete "the recent" after "That" and substitute with "earlier on, a current affairs commentator received a lawyer's letter sent by the Chief Executive LEUNG Chun-ying in his personal capacity for writing a newspaper commentary about him; recently, there was also the"; to delete "has once again" after "which he belongs" and substitute with "; the relevant incidents"; to delete "in this connection," after "since the reunification;"; and to add "in this regard, and considers that the Government has the responsibility of creating a society with freedom of

the press and of speech for members of the media and the community at large; in this connection, this Council urges the Government not to take the lead in committing, tolerating and condoning any acts of suppressing freedom of the press," after "expresses concern"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Ms Claudia MO to Mr Alan LEONG's motion, be passed.

PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

PRESIDENT (in Cantonese): Those against please raise their hands.

(Members raised their hands)

Ms Claudia MO rose to claim a division.

PRESIDENT (in Cantonese): Ms Claudia MO has claimed a division. The division bell will ring for five minutes.

(While the division bell was ringing, Mr LEUNG Kwok-hung stood up)

PRESIDENT (in Cantonese): Mr LEUNG, what is your point?

MR LEUNG KWOK-HUNG (in Cantonese): President, it is now past midnight.

PRESIDENT (in Cantonese): Mr LEUNG, I determined just now that the meeting could be adjourned at midnight or thereabouts and the time is now slightly to the right-hand side of midnight. (*Laughter*)

MR LEUNG KWOK-HUNG (in Cantonese): Have you not heard of the story of Cinderella? After midnight, everything will revert to its original form.

PRESIDENT (in Cantonese): Mr LEUNG, this is not the time for you to speak. Please sit down.

PRESIDENT (in Cantonese): Will Members please proceed to vote.

PRESIDENT (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr Albert HO, Mr James TO, Mr Frederick FUNG, Prof Joseph LEE, Mr CHEUNG Kwok-che, Mr Charles Peter MOK, Mr Kenneth LEUNG and Mr IP Kin-yuen voted for the amendment.

Mr Abraham SHEK, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Ms Starry LEE, Mr CHAN Kin-por, Mr IP Kwok-him, Mr NG Leung-sing, Mr Steven HO, Mr YIU Si-wing, Mr KWOK Wai-keung, Mr Christopher CHEUNG, Mr Martin LIAO, Mr TANG Ka-piu, Ir Dr LO Wai-kwok and Mr Tony TSE voted against the amendment.

Mr Tommy CHEUNG, Mr Frankie YICK and Mr POON Siu-ping abstained.

Geographical Constituencies:

Mr LEE Cheuk-yan, Mr LEUNG Yiu-chung, Mr Ronny TONG, Ms Cyd HO, Mr Paul TSE, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr Albert CHAN, Mr WONG Yuk-man, Ms Claudia MO, Mr WU Chi-wai, Mr Gary FAN, Mr CHAN Chi-chuen, Dr Kenneth CHAN, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr SIN Chung-kai and Dr Helena WONG voted for the amendment.

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mrs Regina IP, Mr Michael TIEN, Mr LEUNG Che-cheung, Dr Elizabeth QUAT and Mr Christopher CHUNG voted against the amendment.

Mr James TIEN abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 27 were present, eight were in favour of the amendment, 16 against it and three abstained; while among the Members returned by geographical constituencies through direct elections, 31 were present, 18 were in favour of the amendment, 11 against it and one abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negated.

MR ANDREW LEUNG (in Cantonese): President, I move that in the event of further divisions being claimed in respect of the motion on "Safeguarding editorial independence and autonomy" or any amendments thereto, this Council do proceed in each of such divisions immediately after the division bell has been rung for one minute.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr Andrew LEUNG be passed.

PRESIDENT (in Cantonese): Does any Member wish to speak?

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

PRESIDENT (in Cantonese): Those against please raise their hands.

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the motion passed.

I order that in the event of further divisions being claimed in respect of the motion on "Safeguarding editorial independence and autonomy" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

PRESIDENT (in Cantonese): Mr IP Kwok-him, please move your amendment.

MR IP KWOK-HIM (in Cantonese): President, I move that Mr Alan LEONG's motion be amended.

Mr IP Kwok-him moved the following amendment: (Translation)

"To add ", given that" after "That"; to add ", and in recent years, the reporting practices of individual media organizations, including defiance of facts and disregard for the law, have also been called into question to the detriment of the credibility of news media" after "editorial autonomy"; to add "30% of the respondents consider Hong Kong news media to be responsible in reporting, but" after "indicates that"; to add "point out that Hong Kong news media has misused or abused freedom of the press, and" after "half of the respondents"; to add "respect the law, report news objectively and accurately, and" after "in their duties,"; to delete "and continue" after "editorial independence and autonomy," and substitute with "so as to restore media credibility, and ensure that Hong Kong news media continues"; and to add ", and achieves the objectives of providing people with accurate information, revealing social problems and monitoring the Government, etc" immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr IP Kwok-him to Mr Alan LEONG's motion, be passed.

PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

PRESIDENT (in Cantonese): Those against please their hands.

(Members raised their hands)

Mr LEUNG Kwok-hung rose to claim a division.

PRESIDENT (in Cantonese): Mr LEUNG Kwok-hung has claimed a division. The division bell will ring for one minute.

PRESIDENT (in Cantonese): Will Members please proceed to vote.

PRESIDENT (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Ms Starry LEE, Mr CHAN Kin-por, Mr IP Kwok-him, Mr NG Leung-sing, Mr Steven HO, Mr Frankie YICK, Mr YIU Si-wing, Mr Christopher CHEUNG, Mr Martin LIAO, Mr POON Siu-ping, Ir Dr LO Wai-kwok and Mr Tony TSE voted for the amendment.

Mr Albert HO, Mr James TO, Mr Frederick FUNG, Prof Joseph LEE, Mr CHEUNG Kwok-che, Mr Charles Peter MOK, Mr Kenneth LEUNG and Mr IP Kin-yuen voted against the amendment.

Mr KWOK Wai-keung and Mr TANG Ka-piu abstained.

Geographical Constituencies:

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mrs Regina IP, Mr Paul TSE, Mr Michael TIEN, Mr James TIEN, Mr LEUNG Chi-cheung, Dr Elizabeth QUAT and Mr Christopher CHUNG voted for the amendment.

Mr LEE Cheuk-yan, Mr LEUNG Yiu-chung, Mr Ronny TONG, Ms Cyd HO, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr Albert CHAN, Mr WONG Yuk-man, Ms Claudia MO, Mr WU Chi-wai, Mr Gary FAN, Mr CHAN Chi-chuen, Dr Kenneth CHAN, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr SIN Chung-kai and Dr Helena WONG voted against the amendment.

Mr WONG Kwok-hing and Mr WONG Kwok-kin abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 27 were present, 17 were in favour of the amendment, eight against it and two abstained; while among the Members returned by geographical constituencies through direct elections, 31 were present, 11 were in favour of the amendment, 17 against it and two abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Mr James TO, you may move your amendment.

MR JAMES TO (in Cantonese): President, I move that Mr Alan LEONG's motion be amended.

Mr James TO moved the following amendment: (Translation)

"To add "freedom of the press is a core value of Hong Kong, but" after "That"; and to add ": (1) the SAR Government to strive to uphold freedom of speech and of the press in Hong Kong, fairly treat various media organizations, and protect journalists' safety in news reporting; (2) investors of media organizations to attach importance to freedom of the press, ensure the provision for journalists of a working environment with editorial independence and autonomy, and respect journalists' professional judgment and dignity; (3) large consortia and commercial organizations to place advertisements based on general commercial principles and not to mix in political considerations to influence the stances of editorial autonomy of media organizations; and (4)" after "calls on"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr James TO to Mr Alan LEONG's motion, be passed.

PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

PRESIDENT (in Cantonese): Those against please raise their hands.

(Members raised their hands)

Mr IP Kwok-him rose to claim a division.

PRESIDENT (in Cantonese): Mr IP Kwok-him has claimed a division. The division bell will ring for one minute.

PRESIDENT (in Cantonese): Will Members please proceed to vote.

PRESIDENT (in Cantonese): Will Members please check their votes. If there are no queries, voting shall stop now and the result will be displayed.

Functional Constituencies:

Mr Albert HO, Mr James TO, Mr Frederick FUNG, Prof Joseph LEE, Mr CHEUNG Kwok-che, Mr Charles Peter MOK, Mr Kenneth LEUNG, Mr IP Kin-yuen and Mr POON Siu-ping voted for the amendment.

Mr WONG Ting-kwong, Ms Starry LEE, Mr IP Kwok-him, Mr NG Leung-sing, Mr Steven HO, Mr KWOK Wai-keung, Mr TANG Ka-piu and Mr Tony TSE voted against the amendment.

Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr CHAN Kin-por, Mr Frankie YICK, Mr YIU Si-wing, Mr Christopher CHEUNG, Mr Martin LIAO and Ir Dr LO Wai-kwok abstained.

Geographical Constituencies:

Mr LEE Cheuk-yan, Mr LEUNG Yiu-chung, Mr Ronny TONG, Ms Cyd HO, Mrs Regina IP, Mr Paul TSE, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr Albert CHAN, Mr WONG Yuk-man, Ms Claudia MO, Mr Michael TIEN, Mr WU Chi-wai, Mr Gary FAN, Mr CHAN Chi-chuen, Dr Kenneth CHAN, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr SIN Chung-kai and Dr Helena WONG voted for the amendment.

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHAN Hak-kan, Mr WONG Kwok-kin, Mr LEUNG Che-cheung, Dr Elizabeth QUAT and Mr Christopher CHUNG voted against the amendment.

Dr Priscilla LEUNG and Mr James TIEN abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 27 were present, nine were in favour of the amendment, eight against it and 10 abstained; while among the Members returned by geographical constituencies through direct elections, 31 were present, 20 were in favour of the amendment, eight against it and two abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Ms Cyd HO, you may move your amendment.

MS CYD HO (in Cantonese): President, I move that Mr Alan LEONG's motion be amended.

Ms Cyd HO moved the following amendment: (Translation)

"To add ", and urges the authorities to enact legislation to ensure Radio Television Hong Kong to be free from political and financial pressure for performing its duties effectively as a public service broadcaster" immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Ms Cyd HO to Mr Alan LEONG's motion, be passed.

PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

PRESIDENT (in Cantonese): Those against please raise their hands.

(Members raised their hands)

Mr IP Kwok-him rose to claim a division.

PRESIDENT (in Cantonese): Mr IP Kwok-him has claimed a division. The division bell will ring for one minute.

PRESIDENT (in Cantonese): Will Members please proceed to vote.

PRESIDENT (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr Albert HO, Mr James TO, Mr Frederick FUNG, Prof Joseph LEE, Mr CHEUNG Kwok-che, Mr Charles Peter MOK, Mr Kenneth LEUNG and Mr IP Kin-yuen voted for the amendment.

Mr Tommy CHEUNG, Mr WONG Ting-kwong, Ms Starry LEE, Mr CHAN Kin-por, Mr IP Kwok-him, Mr NG Leung-sing, Mr Steven HO, Mr Frankie YICK, Mr YIU Si-wing, Mr KWOK Wai-keung, Mr Martin LIAO, Mr TANG Ka-piu and Mr Tony TSE voted against the amendment.

Mr Abraham SHEK, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr Christopher CHEUNG, Mr POON Siu-ping and Ir Dr LO Wai-kwok abstained.

Geographical Constituencies:

Mr LEE Cheuk-yan, Mr LEUNG Yiu-chung, Mr Ronny TONG, Ms Cyd HO, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr Albert CHAN, Mr WONG Yuk-man, Ms Claudia MO, Mr WU Chi-wai, Mr Gary FAN, Mr CHAN Chi-chuen, Dr Kenneth CHAN, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr SIN Chung-kai and Dr Helena WONG voted for the amendment.

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHAN Hak-kan, Mr WONG Kwok-kin, Mrs Regina IP, Mr Paul TSE, Mr Michael TIEN, Mr James TIEN, Mr LEUNG Che-cheung, Dr Elizabeth QUAT and Mr Christopher CHUNG voted against the amendment.

Dr Priscilla LEUNG abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 27 were present, eight were in favour of the amendment, 13 against it and six abstained; while among the Members returned by geographical constituencies through direct elections, 31 were present, 17 were in favour of the amendment, 12 against it and one abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Mr Alan LEONG, you may now reply and you have 53 seconds.

MR ALAN LEONG (in Cantonese): President, perhaps someone may say, "when one cock is dead, another one crows", meaning that even if *Ming Pao* is really muted, another voice might still be heard. However, I am worried that it will be very difficult to hear voices again when all cocks are turned into quails, even if not culled, and subsequently "harmonized". Hence, I hope colleagues in this Council can stop disguising themselves as ostriches when faced with the manipulation of public opinion in such a stark manner. I hope Members will support my original motion and express support for front-line journalists, freedom of the press and editorial autonomy and send them a positive message.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr Alan LEONG be passed.

PRESIDENT (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

PRESIDENT (in Cantonese): Those against please raise their hands.

(Members raised their hands)

Mr IP Kwok-him rose to claim a division.

PRESIDENT (in Cantonese): Mr IP Kwok-him has claimed a division. The division bell will ring for one minute.

PRESIDENT (in Cantonese): Will Members please proceed to vote.

PRESIDENT (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr Albert HO, Mr James TO, Mr Tommy CHEUNG, Mr Frederick FUNG, Prof Joseph LEE, Mr CHAN Kin-por, Mr CHEUNG Kwok-che, Mr Frankie YICK, Mr Charles Peter MOK, Mr Kenneth LEUNG, Mr IP Kin-yuen, Mr Martin LIAO, Mr POON Siu-ping and Mr Tony TSE voted for the motion.

Mr WONG Ting-kwong, Ms Starry LEE, Mr IP Kwok-him, Mr NG Leung-sing and Mr Steven HO voted against the motion.

Mr Abraham SHEK, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr YIU Si-wing, Mr KWOK Wai-keung, Mr Christopher CHEUNG, Mr TANG Ka-piu and Ir Dr LO Wai-kwok abstained.

Geographical Constituencies:

Mr LEE Cheuk-yan, Mr LEUNG Yiu-chung, Mr Ronny TONG, Ms Cyd HO, Mrs Regina IP, Mr Paul TSE, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr Albert CHAN, Mr WONG Yuk-man, Ms Claudia MO, Mr Michael TIEN, Mr James TIEN, Mr WU Chi-wai, Mr Gary FAN, Mr CHAN Chi-chuen, Dr Kenneth CHAN, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr SIN Chung-kai and Dr Helena WONG voted for the motion.

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Mr CHAN Hak-kan, Mr LEUNG Che-cheung, Dr Elizabeth QUAT and Mr Christopher CHUNG voted against the motion.

Mr WONG Kwok-hing, Dr Priscilla LEUNG and Mr WONG Kwok-kin abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 27 were present, 14 were in favour of the motion, five against it and eight abstained; while among the Members returned by geographical constituencies through direct elections, 31 were present, 21 were in favour of the motion, six against it and three abstained. Since the question was agreed by a majority of each of the two groups of Members present, he therefore declared that the motion was passed.

NEXT MEETING

PRESIDENT (in Cantonese): I now adjourn the Council until 11 am on Wednesday, 12 February 2014, that is, the 13th of the first month of the Year of the Horse.

Adjourned accordingly at twenty-five minutes past Twelve o'clock in the morning.