

LCQ20: Protecting consumers' rights and interests of online shoppers

Following is a question by the Hon Paul Tse Wai-chun and a written reply by the Secretary for Commerce and Economic Development, Mr Edward Yau, in the Legislative Council today (May 16):

Question:

Recently, some members of the public have complained that allegedly deceptive online shopping advertisement pages, which offer high-priced authentic commodities (e.g. famous brand headsets, electronic game players, video recording equipment, intelligent robots, sneakers and pricey jewellery) for sale at low prices, are prevalent on the social media platform Facebook. It is learnt that such pages mostly use "closure of physical shops", "presence of defects in the commodities" or "detention of goods by the customs and excise authorities" as a pretext for commodities being sold at prices as low as about 10 per cent or 20 per cent of the original prices, and are uploaded with captured images of bills to prove the authenticity of the goods concerned, which lured members of the public to rush to place purchase orders. Some of the pages even use the addresses of shops selling authentic goods as collection points in order to dull the vigilance of members of the public. However, members of the public who had made payments for the purchases found out that (i) they had been defrauded only when they went to pick up the goods at the relevant addresses, or (ii) the goods did not match the descriptions only after they had unwrapped the package of the goods delivered by couriers. Subsequently, when those members of the public tried to take up the matter with the sellers, they found out that the pages in question had been deleted and the sellers could not be contacted. In this connection, will the Government inform this Council:

- (1) of the number of reports of online shopping fraud received by the Customs and Excise Department, the Police and other relevant government departments in the past three years, the amount of money involved and the respective numbers of relevant prosecutions and convictions;
- (2) of the policies or measures in place to assist members of the public who have been defrauded in recovering the payments made to fraudsters;
- (3) how the Consumer Council followed up the aforesaid type of complaints in the past three years;
- (4) how the authorities follow up those online shopping fraud cases which were found upon investigation to have involved overseas criminal syndicates; whether they will take the initiative to contact the relevant departments of the countries concerned to seek assistance from them;
- (5) as more and more members of the public make use of social media

platforms for online shopping, whether the authorities have studied new measures and policies to combat online shopping frauds so as to protect the consumers' rights and interests; and

(6) as it has recently been reported by the media that the credit card data of customers amassed by several online shopping platforms are available on websites associated with illegal activities (commonly known as "dark webs"), and the situation is serious, whether the authorities have received relevant reports; if so, of the details; the measures the authorities have put in place to protect the personal confidential data of members of the public from being stolen and used when they shop online?

Reply:

President,

After consulting the Security Bureau, the Constitutional and Mainland Affairs Bureau, the Office of the Government Chief Information Officer (OGCIO) and the Consumer Council, my reply to the six parts of the question is as follows:

(1) The number of complaints against unfair trade practices related to online shopping received by the Customs and Excise Department (C&ED) and the relevant enforcement statistics in the past three years are set out at Table 1. As some complainants did not provide information on the amounts involved in the complaint cases, C&ED does not have statistics on the amounts involved. The figures of online shopping fraud cases received by the Police in the past three years are set out at Table 2. The Police do not maintain prosecution and conviction figures for online shopping fraud cases (Note 1).

(2) In criminal cases (including fraud cases) handled by the Police, upon handing down judgments, the court will issue orders to direct the handling of lost properties or cash involved which were seized by the Police as exhibits during the investigation. If the court is satisfied that an exhibit belongs solely to a particular victim, it may issue an order for its return. In addition, if a bank account is found to be used for handling criminal proceeds, the Police will, where appropriate, request the bank to freeze the relevant suspicious assets. During such period, the victim may consider claiming compensation for the loss suffered through civil action. If necessary, the victim may obtain their documents relating to the case from the Police to take forward such procedures.

On the other hand, under section 36 of the Trade Descriptions Ordinance (Cap. 362) (the Ordinance), aggrieved consumers may institute civil claim for damages if they have suffered loss or damages due to conduct directed to them which constitutes a fair trading offence (Note 2). Separately, under section 18A of the Ordinance, where a person is convicted of any of the fair trading offences, the court may order the convicted person to compensate any person for the financial loss resulting from the offence.

(3) Consumers who have disputes with online traders may seek assistance from the Consumer Council. The Consumer Council acts as a conciliator in handling

disputes between consumers and traders. It assists traders and complainants to resolve their disputes, for example, by trying to contact the traders with a view to helping both parties develop mutually acceptable agreements. In cases that involve suspected illegal conduct, the Consumer Council will refer the cases to law enforcement authorities for follow-up.

(4) In handling cases of online fraud, if the Police needs to conduct investigation or adduce evidence in respect of incidents which took place outside Hong Kong, the Police will exchange intelligence and seek co-operation with relevant law enforcement agencies outside Hong Kong, and the Interpol. Besides, if local or websites outside Hong Kong are found to be conducting illegal activities, C&ED may demand such websites to remove the relevant contents or links. Depending on the need and circumstances, joint operations with enforcement agencies outside Hong Kong may also be conducted.

(5) The Police are committed to combating technology crimes (including online shopping frauds). Since 2012, the Police have put "combating technology crime" as one of the Commissioner of Police's Operational Priorities, and have been enhancing their technology, equipment and resources input in this regard. In July 2017, an enforcement action codenamed "Operation DRUMSKY" was launched to combat online shopping frauds, in which 30 persons were arrested and 162 cases and loss of about HK\$890,000 were involved. In addition, C&ED attaches great importance to protecting consumer rights. C&ED will monitor different types of illegal online activities by using advanced tools for evidence collection and investigation, and initiate appropriate follow-up actions and prosecutions on complaints received.

Apart from proactive law enforcement, publicity and education are equally important in protecting consumer rights. In the study report on online shopping published by the Consumer Council in 2016, the Council reminds consumers that as online shopping becomes increasingly popular, they should be aware of some common problems associated with it. The report also gives a number of recommendations to traders, encouraging them to strictly comply with the law, adopt good business practices and enhance customer service. The "CHOICE" Magazine published by the Consumer Council has in recent years featured a good number of articles on the subject of online shopping, including giving tips to consumers on what they should pay attention to when making a purchase online by "cash on delivery" in the March 2018 issue. C&ED also reminds consumers from time to time to stay vigilant when shopping online and procure products from reputable traders. They should not trust advertisements at suspicious websites or social networking platforms easily, and should examine goods when accepting delivery to avoid incurring losses.

On the other hand, the Police's Commercial Crime Bureau established the Anti-Deception Coordination Centre in July 2017 to reinforce the combat against deception cases and raise the public's anti-deception awareness. Its major duties include monitoring and analysing the trends of deception cases, with a view to formulating and implementing combating strategies; co-ordinating anti-deception publicity work; setting up a 24-hour hotline "Anti-Scam Helpline 18222" to facilitate public enquiries and provide timely

assistance; and expediting the investigation of similar deception cases and minimising the loss of victims. The Police will regularly produce short videos and anti-crime information, as well as advise the public of the latest modus operandi of fraudsters through the Police's electronic platforms, including YouTube, the Hong Kong Police Mobile Application, the Police website, the Police Facebook page and the "Fight Scams Together" scam prevention information platform. The Police also disseminate anti-crime messages to the public through Police Magazine and traditional media (i.e. television, radio and newspapers).

(6) OGCI0 attaches great importance to cyber security education and protection, and has been paying close attention to information security threat intelligence, including information circulated in the "dark web". That Office has not received any report so far regarding customer data of online shopping platforms being circulated in the "dark web". It will continue to work with the Hong Kong Computer Emergency Response Team Coordination Centre to constantly remind businesses and the public to stay vigilant, adopt suitable security measures on their computers and use Internet services safely, in order to protect personal information and guard against cyber attacks. Separately, the Office of the Privacy Commissioner for Personal Data (PCPD) has not received relevant reports either. PCPD from time to time issues or revises Codes of Practice and Guidances, such as the "Guidance for Data Users on the Collection and Use of Personal Data through the Internet" and "Protecting Privacy – Using Computers and the Internet Wisely", so as to assist data users of various trades to understand the requirements they must comply with in the online collection and use of personal data, and to remind the public to protect their personal data when using the Internet.

The Police have also been monitoring different types of alleged illegal acts on the web (including the "dark web") and will take appropriate actions in light of the circumstances. Thus far, the Police have not received relevant reports related to customer data of online shopping platforms being circulated in the "dark web". From time to time, the Police would remind the public to be vigilant when conducting online transactions, for example to patronise businesses with good reputation. Members of the public who suspect unauthorised use of their credit cards or leakage of relevant information should report to the Police as soon as practicable.

Note 1: Currently, as a general practice, prosecution and conviction statistics are only compiled in respect of offences in the law (e.g. "obtaining property by deception" or "theft") but not specific cases. Since a particular case could involve various offences in the law (e.g. online shopping fraud cases may involve "obtaining property by deception" or "dealing with property known or believed to represent proceeds of indictable offence", etc), prosecution and conviction statistics by case nature cannot be provided.

Note 2: The Ordinance prohibits specified unfair trade practices deployed by traders against consumers, including false trade descriptions, misleading omissions, aggressive commercial practices, bait advertising, bait-and-switch

and wrongly accepting payment.

LC: CS presents Government Minute in response to Report of Public Accounts Committee No. 69

Following is the speech (translated from Chinese) by the Chief Secretary for Administration, Mr Matthew Cheung Kin-chung, in presenting the Government Minute in response to the Report of the Public Accounts Committee No. 69 in the Legislative Council today (May 16):

President,

Laid on the table today is the Government Minute (GM) responding to Report No. 69 of the Public Accounts Committee (PAC).

I welcome the submission of Report No. 69 by the Chairman of PAC to the Legislative Council on February 7, which embodies a conclusion of and recommendations on the chapter of "Procurement and maintenance of government vessels" in the Director of Audit's Report. I am also grateful for the time and effort that the Chairman and Members of PAC devoted to investigating this subject.

There had been some inadequacies in the Marine Department's (MD) procurement of government vessels before 2013. There has also been persistent manpower shortage in two professional grades of MD. We are pleased to note that the PAC Report recognises a series of reform measures implemented by MD in the Government Fleet Division (GFD) and the improvement measures and work adopted to resolve the manpower shortage problem of MD's professional grades in recent years.

We accept PAC's various recommendations and have set out in detail the specific responses of the Transport and Housing Bureau (THB) and MD in the GM. Today, I would like to highlight the key measures that the Government has taken to improve MD's work in procurement and maintenance of government vessels, including those implemented and the progress made.

In May 2013, the Government established the Steering Committee on Systemic Reform of the Marine Department (the Steering Committee) chaired by the Secretary for Transport and Housing, who personally steered and monitored MD in conducting the review and reform. The Steering Committee published its Final Report in April 2016, which recommended MD to replicate the good practices introduced in certain divisions in other divisions of MD, notably GFD, to improve its operations and procedures. In this connection, MD's Task

Force on Reform has been stepping up its efforts in reforming GFD since 2016, with a series of reform measures progressively implemented to further enhance the efficiency of GFD.

The slow progress in the procurement of government vessels during the period from 2010 to 2013 has led to the ageing of major vessels in the government fleet. MD has strengthened the management oversight of GFD since December 2015 to better monitor the implementation of various improvement measures. To expedite the procurement of government vessels, additional resources had been obtained for the Government New Construction Section to create time-limited posts for setting up two teams to clear procurement backlogs, and arrangement was made for the secondment of two Supplies Officer grade officers with rich procurement experience from the Government Logistics Department to assist professional grade staff in MD in vessel procurement.

The reform measures of GFD have started to deliver results. For instance, as compared with only two to three tenders each year before 2016, MD has expedited vessel procurement with a total of 15 tenders issued involving 63 government vessels for six departments between 2016 and 2017.

For government vessels which have reached their reference serviceable lifespan but are still in operation, MD has strengthened the inspection and maintenance work for the hull, machineries and equipment of the vessels during maintenance services to ensure that the vessels are safe and efficient to operate.

In improving the management of maintenance materials in the Government Dockyard, MD has completed the review on over 2 000 items without movement for more than 20 years and is now reviewing the items without movement for less than 20 years. The disposal of obsolete/dormant items, in accordance with the procedures stipulated in Stores and Procurement Regulations (including commercial disposal or dumping, etc.), has been conducted in phases following the review. MD is also proceeding with the enhancement of the Government Fleet Information System with a view to strengthening its analytical capacity and management reporting functions to facilitate the stock management of the Government Dockyard.

On the issue of manpower shortage of the professional grades staff in MD, the Administration is pleased to note that the Standing Commission on Civil Service Salaries and Conditions of Service has completed a grade structure review (GSR) for the two professional grades of MD, i.e. the Marine Officer and Surveyor of Ships grades, and will seek the approval of the Finance Committee (FC) of LegCo soon. Subject to the approval of FC, we will implement the recommendations of the GSR as soon as possible to resolve the manpower shortage and succession problems of the two grades in the long run.

THB will continue to perform the duties of a policy bureau. Through regular meetings with the senior management of MD, THB will closely monitor the Department's overall work performance and progress on various issues and, as and when necessary, discuss with MD the issues requiring the Bureau's attention and provide policy steer and guidance. Moreover, THB also maintains

ongoing daily communications with MD on different issues requiring policy inputs, and arranges visits to the facilities and offices of MD by the senior management of the Bureau from time to time to gain a more comprehensive understanding of the issues MD is facing at the operational level, so as to enable THB to formulate policies in a timely and effective manner. Other than these, THB will assess and monitor the performance of MD in various aspects with reference to certain indicators developed and adopted, and in case a target is not met or when the performance has deteriorated, examine the issues and reasons with MD, keep in view the ongoing development of these matters as well as consider whether further steer and guidance from the Bureau is necessary.

The Government also attaches great importance to the manpower training of the maritime sector. In April 2014, \$100 million was established to set up the Maritime and Aviation Training Fund (MATF), which aims to attract and encourage young people and in-service practitioners to receive aviation and maritime education and training, thereby enhancing the overall competitiveness and the professional standards of the industries. As at end-2017, 12 maritime-related training subsidy and incentive schemes were implemented under MATF, benefitting over 2 780 students and maritime practitioners and involving an amount of \$31 million. Furthermore, the Manpower Development Committee (MDC) has also been set up under the Hong Kong Maritime and Port Board since the Board's inception in April 2016 with a view to facilitating the formulation of manpower development strategies. In summary, in response to the manpower shortage problem faced by the industry, THB will continue to work closely with MDC, industry stakeholders and relevant education institutions to explore and devise new measures or enhancements to the existing initiatives under MATF. Besides, THB would embark on a review of the overall implementation and effectiveness of MATF, with a view to mapping out its way forward.

President, I would like to thank the Chairman and all Members of PAC again for their efforts and guidance. THB and MD will strictly follow their responses in the GM and implement improvement measures in a timely manner in order to enhance the overall service quality of the government fleet.

Thank you, President.

LCQ8: Supporting Hong Kong enterprises to operate in industrial estates

Following is a question by the Hon Chung Kwok-pan and a written reply by the Secretary for Innovation and Technology, Mr Nicholas W Yang, in the Legislative Council today (May 16):

Question:

The Government has been actively promoting re-industrialisation in recent years. Moreover, the Hong Kong Science and Technology Parks Corporation (HKSTPC) revised the Industrial Estate (IE) policy in 2015 so as to make better use of its three IEs respectively located in Tai Po, Yuen Long and Tseung Kwan O. It is learnt that in recent years, quite a number of Hong Kong manufacturers have intended to relocate their production lines on the Mainland back to Hong Kong. Also, quite a number of enterprises in traditional industries have planned to find sites in Hong Kong for building factories, and to make use of new production technologies to give full play of the effects of Hong Kong-researched-and-developed, Hong Kong-invested and Hong Kong-manufactured high quality brands, thereby bringing the development of Hong Kong's manufacturing industries back on a rising track. Regarding the support for Hong Kong enterprises to operate in IEs, will the Government inform this Council:

(1) whether it knows the current occupancy rates of the sites/units in the various aforesaid IEs; the (i) names and (ii) number (broken down by business type) of the enterprises currently operating in each IE;

(2) whether it knows the respective numbers of applications, received by the HKSTPC in each year since the HKSTPC revised the IE policy, for renting (i) IE sites for building standalone factories and (ii) IE units for establishing companies; among such applications, the respective numbers of those approved and not approved (set out a breakdown by name of IE), and the reasons for some of the applications not being approved;

(3) whether it knows, in each year since the HKSTPC revised the IE policy, (i) the total amount of rents received by the HKSTPC in respect of each IE, and (ii) the rates of rental adjustment made by the HKSTPC in respect of IE sites/units; how the rental levels compare with those of private commercial and industrial buildings; the criteria currently adopted by the HKSTPC for determining the rental levels and the duration of tenancy agreements of IEs;

(4) whether it knows the fees payable by the tenants of the aforesaid IEs in addition to rental payments; if the tenants are required to pay management fees, the current management fee levels and how such fee levels compare with those of private commercial and industrial buildings; the criteria currently adopted by the HKSTPC for determining IE's management fee levels and the management modes of IEs;

(5) whether it knows if the HKSTPC has, in its management of the aforesaid IEs, provided support (e.g. rental concessions and measures facilitating business operation) for tenants, in order to dovetail with the policy objective of re-industrialisation and encourage more enterprises to operate in IEs; if the HKSTPC has, the details; if not, the reasons for that and whether the HKSTPC will consider providing such support for IE tenants; and

(6) of the measures to (i) facilitate enterprises' relocation of their

production lines back to Hong Kong and their admission to the aforesaid IEs, and (ii) support and encourage the use of "Hong Kong-made" high-quality brands for the development of the relevant industries in Hong Kong?

Reply:

President,

The Government is committed to promoting re-industrialisation with a view to developing high-end manufacturing that is based on new technologies and smart production but does not occupy much land, thereby providing a new engine for growth of Hong Kong's economy and creating quality and diversified employment opportunities. The Government and the Hong Kong Science and Technology Parks Corporation (HKSTPC) revised the industrial estate (IE) policy in 2015, under which the HKSTPC would develop specialised multi-storey industrial buildings for rental to multiple users in order to attract high value-added technology industries and manufacturing processes suitable for Hong Kong.

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

(1) Currently, 95 per cent of the industrial sites in the three IEs' have been granted. As at end April 2018, there were 159 enterprises operating in the IEs. The breakdown by industries of the enterprises in the IEs is set out below.

Industry	No. of Enterprises			Total (Percentage*)
	Tai Po Industrial Estate	Yuen Long Industrial Estate	Tseung Kwan O Industrial Estate	
Food and beverages	22	5	4	31 (19.5%)
Biotech and pharmaceutical	9	14	0	23 (14.5%)
Supporting services	6	6	3	15 (9.4%)
Information and telecom	3	0	11	14 (8.8%)
Machinery and parts	6	5	1	12 (7.5%)
Printing and publishing	4	4	3	11 (6.9%)

Metal parts and products	8	0	0	8 (5.0%)
Plastic resins and plastic Products	4	3	0	7 (4.4%)
Green technology	0	3	2	5 (3.1%)
Broadcasting	2	0	2	4 (2.5%)
Others (e.g. building materials, chemicals and gases, electronics parts and paper packaging)	14	9	6	29 (18.2%)
Total#	78	49	32	159 (100%)

* Due to rounding, the percentage may not add up to 100%.

The above figures only include factories and industrial sites that have already been granted or rented.

As for their names, please refer to the HKSTPC's website as follows:
www.hkstp.org/en/directory/industrial-estates/companies-directory/.

(2) After revising the IE policy in 2015, only in exceptional cases would the HKSTPC grant sites on long-term lease to meritorious applicants for building standalone factories. The HKSTPC has so far received three relevant applications which are currently under vetting.

As for development of multi-storey specialised industrial buildings, the HKSTPC completed refurbishing a four-storey factory (with a total gross floor area (GFA) of 84 000 square feet (sq ft)) in the Tai Po IE into the Precision Manufacturing Centre (PMC) in March 2017 with a view to fostering smart production. As at end March 2018, the HKSTPC had received nine formal admission applications from applicants engaging in industries such as precision engineering and assembling, new material manufacturing, and advanced indoor hydroponic, etc., and approved seven of them after vetting. Among the seven approved applications, four enterprises have already moved in, occupying 75 per cent of the GFA, and the other three eventually did not set up operation due to various commercial considerations. The remaining two admission applications were not approved as they could not pass the vetting requirements (for instance, the company's business did not belong to the HKSTPC's target industries).

(3) Under the revised IE policy, rental charges at IEs is set at competitive level, having regard to the prevailing market conditions and other relevant factors (such as facilities and restrictions on use etc.), and after valuation on the concerned buildings by independent surveyor. Currently, the HKSTPC receives a rental income of about \$460,000 per month from the PMC.

The rent of upstairs units is around \$7 to \$8.5 per sq ft, more or less similar to, or even slightly lower than, privately-run multi-storey factory buildings in the same district. The rental charges will be reviewed by the HKSTPC once every three years. Since the first lease of the PMC was concluded in the third quarter of 2017, review or adjustment of rent is not yet due. Separately, the term of the first lease is generally six years, and each renewal contract thereafter, if granted, will last for three years.

(4) Taking the PMC as an example, the HKSTPC has engaged an external facility management company for professional management. Apart from rent, tenants are obliged to pay monthly management fee and chilled water charge of \$2.77 and \$1 per sq ft respectively. Management fee is charged by the HKSTPC on a cost-recovery basis, and is set at a similar level with that of industrial buildings of the same type in neighbouring districts. Besides, tenants, as users, need to bear rates and government rent, and other charges such as water, electricity, gas, sewage, etc.

(5) The HKSTPC has been providing one-stop infrastructure and support services to technology-based companies, in order to encourage manufacturers to set up their production bases in Hong Kong. The IE policy was revised in 2015 to support re-industrialisation by developing and managing specialised multi-storey industrial buildings for high value-added technology industries (e.g. pharmaceutical, healthcare, biomedical and advanced machinery etc.), so that the manufacturers can operate efficiently therein. With regard to the PMC, the HKSTPC has specifically set up a large-scale rigid frame at the rooftop to facilitate the installation of extra air-conditioners, specialised water tank for industrial use, refrigeration unit and large-sized mechanical lifting exit etc. by tenants. Under special circumstances, the HKSTPC would offer flexible lease arrangements, including rent concession or deferral of move-in time etc. having regard to the needs of tenants to install additional facilities and alter the factory units.

(6) To encourage enterprises to relocate their production lines back to Hong Kong and re-build the "Made in Hong Kong" brand, the Government has been working closely with the HKSTPC to provide related infrastructure and facilities. To tie in with the revised IE policy, the HKSTPC is constructing a Data Technology Hub and an Advanced Manufacturing Centre in the Tseung Kwan O IE, which are expected to be completed in 2020 and 2022 respectively.

On technological support, the Government provides funding support through the Innovation and Technology Fund (ITF) for projects that contribute to technology upgrading in manufacturing and services industries and promotion of innovation. As at January 2018, over 7 000 projects were funded by the ITF, with a funding of about \$13.6 billion. The Government has also set aside \$500 million under the ITF to launch a Technology Talent Scheme in the third quarter of 2018, which includes a Re-industrialisation and Technology Training Programme to subsidise local enterprises on a matching basis for training staff in advanced technologies, especially those related to Industry 4.0, with a view to driving re-industrialisation.

Meanwhile, the Hong Kong Productivity Council (HKPC) has been dedicating

efforts to promoting re-industrialisation to facilitate enterprises in moving towards high value-added production and gradually upgrading towards Industry 4.0, including setting up the Smart Industry One Consortium as a platform to facilitate the industry to exchange information on smart industry; establishing an Invention Centre jointly with the Fraunhofer Institute for Production Technology of Germany to assist the industry in accelerating adoption of Industry 4.0-related technologies; and setting up the HKPC Institute of Innovation & Technology (Shenzhen) to provide Hong Kong entrepreneurs in the Bay Area with solutions based on intelligent manufacturing, artificial intelligence, big data, environmental technology, etc.

LCQ6: Eligibility for candidacy of persons who have chanted certain slogan to run for Legislative Council election

Following is a question by the Hon Claudia Mo and a reply by the Secretary for Constitutional and Mainland Affairs, Mr Patrick Nip, in the Legislative Council today (May 16):

Question:

It has been reported that late last month, a former Director of the Hong Kong and Macao Affairs Office of the State Council was asked by the media on whether people who had chanted "end the one-party dictatorship" slogan in the Hong Kong Special Administrative Region (HKSAR) might run for the Legislative Council (LegCo) election. He replied that "it should be the case that they may not, as such an act contravenes the Country's Constitution and is an unlawful act". In this connection, will the Government inform this Council:

(1) if it knows whether there is any legal basis for the statement that chanting the "end the one-party dictatorship" slogan in HKSAR is an unconstitutional and unlawful act; if there is, of the details;

(2) whether a Returning Officer (RO), when determining the validity or otherwise of a nomination of a candidate for the LegCo election in future, will be required to consider if that person has previously done the following acts: having chanted the "end the one-party dictatorship" slogan, having joined an organisation whose political platform consists of such a slogan, and having participated in activities organised by this type of organisations; whether an RO may decide that the nomination of a candidate is invalid on the ground that the candidate has previously done these acts; and

(3) whether there are other provisions in the Constitution, apart from Article 31 of the Constitution under which HKSAR was established, that are applicable to HKSAR; if so, of such provisions and the legal basis for their being applicable to HKSAR, as well as the legal consequences to be borne by those Hong Kong people who have contravened such provisions?

Reply:

President:

Having consulted the Department of Justice, our consolidated reply to Hon Claudia Mo's question is as follows:

According to the Preamble of the Constitution of the People's Republic of China (Constitution), "[t]he Constitution, in legal form, affirms the achievements of the struggles of the Chinese people of all nationalities and defines the basic system and basic tasks of the State; it is the fundamental law of the State and has supreme legal authority. The people of all nationalities, all State organs, the armed forces, all political parties and public organizations and all enterprises and institutions in the country must take the Constitution as the basic standard of conduct, and they have the duty to uphold the dignity of the Constitution and ensure its implementation." (Note)

Article 31 of the Constitution provides that "[t]he State may establish special administrative regions when necessary. The systems to be instituted in special administrative regions shall be prescribed by law enacted by the National People's Congress (NPC) in the light of specific conditions". Article 62 of the Constitution prescribes the functions and powers that may be exercised by the NPC, including, as provided by subparagraph (14), "to decide on the establishment of special administrative regions and the systems to be instituted there". In accordance with the Constitution, the NPC enacted the Basic Law of the Hong Kong Special Administrative Region (HKSAR) of the People's Republic of China (Basic Law), prescribing the systems to be practised in the HKSAR, in order to ensure the implementation of the basic policies of the People's Republic of China regarding Hong Kong, namely, "one country, two systems", "Hong Kong people administering Hong Kong" and a high degree of autonomy.

At the Celebrations of the 20th Anniversary of Hong Kong's Return to the Motherland and the Inaugural Ceremony of the Fifth Term Government of the HKSAR on July 1 last year, President Xi Jinping clearly stated that "[t]he Basic Law is a basic legislation enacted in accordance with the Constitution. It stipulates the systems and policies practised in the HKSAR, codifies into law and makes institutional arrangement for the principle of 'one country, two systems', and provides legal safeguards for the practice of 'one country, two systems' in the HKSAR." Article 11(1) of the Basic Law stipulates that, in accordance with Article 31 of the Constitution, the systems and policies practised in the HKSAR, including the social and economic systems, the system for safeguarding the fundamental rights and freedoms of its residents, the executive, legislative and judicial systems, and the relevant policies, shall be based on the provisions of the Basic Law.

As Article 31 of the Constitution already authorises the NPC to prescribe the systems to be instituted in special administrative regions by law, in accordance with Article 31 of the Constitution, the systems and policies of the HKSAR that were prescribed in the Basic Law and enacted by the NPC shall have an overriding status. Therefore, the provisions on the socialist system and policies in the Constitution are not implemented in the HKSAR.

The Constitution and the Basic Law form the constitutional basis of the HKSAR. Under this constitutional framework, we must be well aware that the political party system of the People's Republic of China is a system of multi-party co-operation and political consultation led by the Communist Party of China. The HKSAR is an inalienable part of the People's Republic of China. We must respect the Constitution. While the HKSAR implements "one country, two systems" in accordance with the provisions in the Basic Law, the HKSAR must also respect the system in the Mainland.

As regards the parts relating to the Legislative Council election in the question, the Legislative Council Ordinance (Cap 542) clearly stipulates that a person intending to run in a Legislative Council election must make a declaration to the effect that he/she will uphold the Basic Law and pledge allegiance to the HKSAR. In accordance with the Legislative Council Ordinance and Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap 541D), the Returning Officers must, based on the specific circumstances of each case, decide whether or not a person intending to run in the election is validly nominated as a candidate.

We will continue to perform the relevant duties in accordance with the law and ensure that elections are conducted in a fair, open and honest manner.

Thank you Mr President.

Note: This English translation of the Preamble of the Constitution of the People's Republic of China is a direct quote from the official website of the National People's Congress of the People's Republic of China (www.npc.gov.cn/englishnpc/Constitution/2007-11/15/content_1372962.htm).

[Transcript of remarks by CS at media session \(with video\)](#)

Following is the transcript of remarks by the Chief Secretary for Administration, Mr Matthew Cheung Kin-chung, at a media session today (May 16) before LegCo meeting:

Reporter: Could you tell us why was the journalist arrested and how will the

Government follow up on this incident, and how would you comment on the police officers' handling of the incident?

Chief Secretary for Administration: We have immediately contacted the Hong Kong SAR Beijing Office this morning following this news report. Our colleague in Beijing has also been in touch with the Hong Kong and Macao Affairs Office of the State Council. Our instruction to our Beijing colleagues is that we should do whatever we can to assist the reporters concerned and to look into the matter, and also solicit the help of the relevant departments concerned to sort out the matter as quickly as possible. I gather that the Hong Kong and Macao Affairs Office of the State Council has already been involved in mediating the case and in trying to establish the facts. So, we need some time to establish the facts first, okay? But we are very concerned about the safety of our reporters actually carrying out their duties anytime, anywhere, okay? Thank you.

(Please also refer to the Chinese portion of the transcript.)