



Submission on the Review of the Personal Data (Privacy) Ordinance Public Consultation

Over the past years the construction industry has implemented a series of measures aiming to enhance the safety and welfare of construction personnel. One of such measures known as Biometric Security Control System using HandKey Recognition System (HRS) has been developed and widely adopted by the industry for security control and provides attendance verification for wages payment of construction workers. The Handkey biometric data was selected over other biometric data such as fingerprints and retina because it was considered less privacy-invasive and would be least likely to cause any controversial issues. The multiparty development was extremely complex and the industry took well over 10 years to adopt the system that is currently providing site access security control for all of the 300,000 registered workers in Hong Kong. Realizing the benefits and contributions of the system, construction workers welcomed the system by engaging and accepting to use the system actively. Nowadays HRS becomes one of the standard administrative equipment in major construction sites in Hong Kong.

Security control for construction sites is important to prevent unauthorized or unqualified persons from entering into construction sites. Protection to public at large was no longer a nightmare for the Government, developers, consultants and contractors. Biometric security control provisions using HRS are now included as standard contract provisions in many public contracts. Previously many construction activities data requested by the Government were either hard to obtain or unavailable, but the system could now generate reports and information that are sought-after by many public administration departments such as Labour Department, and Construction Workers Registration Authority.

The Commissioner's July ruling to disallowed the practice of using "Fingerprint Data for Attendance Purpose" has cast doubts over the legitimacy of HRS and has sparked off serious concerns on the use of HRS in construction sites. Subsequently, we have met with representatives of the Office of the Privacy Commissioner for Personal Data to explore the construction industry's practice in using biometric devices in particular the HandKey Recognition Systems that are commonly used in construction sites for security control of workers and personnel. Your office did not give any conclusion on

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the legitimacy on HRS developed and used by the construction industry.

Based on the given advices, a number of feasibility studies are currently being carried out. Contractors would advise to modify the specifications of their existing hardware and software aiming to resolve the technical ambiguities that resulted from the Commissioner's rulings. However there is no guaranteed that the re-developed HRS could prevail under the scrutiny of the Personnel Data (Privacy) Ordinance.

Our views on the current consultation are:

- 1) HRS has been developed and widely adopted and accepted by construction workers for many years. This is a norm of the construction industry and should be "accepted practices" under the Ordinance.
- 2) The Ordinance needs to be very specific with sufficient detail to inform all stakeholders, in particular workers who should be aware of their own obligations and rights to avoid any unnecessary arguments and non productive administration procedures that have the potential of damaging the harmony between workers, their direct employers and Main Contractors.
- 3) The Ordinance must allow ample time for any proposed changes to the existing practice and system. Any modifications to the current way of working and site access control system will involve considerable financial and social costs.

We believe the construction industry has demonstrated commitments to foster safe and legitimate environments for construction practitioners and that infringement of privacy is not an issue. Considerable efforts by the industry have been devoted in the past years to tackle the problems of low volume of works and aging of construction workers in Hong Kong. The industry had already taken thoroughly steps to administrate and controls to protect privacy of construction personnel and therefore do not wish to engage in extended and unnecessary added measures for the Personnel Data (Privacy) Ordinance.

The Hong Kong Construction Association, Ltd.

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