

**Islands District Council**  
**Paper IDC 101/2010**

**Management Scheme for the Display of Roadside  
Non-commercial Publicity Materials**

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**Purpose**

The paper provides the background information on the review of the Management Scheme for the Display of Roadside Non-commercial Publicity Materials (“Management Scheme”), the proposed changes to the Management Scheme as a result of the review and the consultation arrangement.

**Direct investigation report by the Ombudsman**

2. The Management Scheme is currently administered by the Lands Department (LandsD) pursuant to the authority delegated by the Director of Food and Environmental Hygiene (DFEH) under section 104A(1)(b) of the Public Health and Municipal Services Ordinance, Cap. 132. The Ombudsman, in the direct investigation report on “Control of Roadside Banners” (executive summary of the report is at **Annex A**) has identified a number of deficiencies in the Management Scheme. First, roadside banners constitute a form of encroachment upon public space and may cause visual obstruction and pollution. Where they block sightline and distract motorists or wear out and come loose, they pose traffic hazard for drivers and pedestrians. Second, a clear statement of the objective of the Management Scheme is absent. Third, there is a lack of rules to prohibit transfer or loaning out of the banner spots by the allocatees. Fourth, the existing guidelines on banner contents are too loosely worded to be useful public information on what is permitted for display on banners. Lastly, prior to the implementation of the Management Scheme, LandsD had only consulted Legislative Council (LegCo) and District Councils (DCs) but not the public at large or the organizations representing the interests of the affected parties (such as residents groups or motorist organizations).

3. In view of the observations, The Ombudsman has made a number of recommendations –

(a) LandsD in conjunction with relevant bureaux to articulate the

objective of the Management Scheme for public information;

- (b) LandsD to revise the rules for proper administration of the Management Scheme including the prohibition of transfer; “loaning out” or assignment of allocated spots; clearly visible acknowledgement on the banner of the individual or organization allocated the banner spot; the display must be relevant to the objective of the Management Scheme and the individual or organization allocated the spot should be the chief beneficiary of the display; and a clear indication in practical terms what contents may be allowed and what not for the banners; and
- (c) LandsD, with the help of the Home Affairs Department (HAD), to seek views from the public at large and interest groups before consulting LegCo and DCs and to reconsider replacement or cancellation of the designated spots at central dividers of roads or close to pedestrian crossings.

### **Review of the Management Scheme**

4. Relevant Government departments including LandsD, Transport Department (TD), Food and Environmental Hygiene Department (FEHD), HAD and Department of Justice (D of J) have conducted a review of the Management Scheme. The proposed revisions are elaborated as follows:-

### **The Objective of the Management Scheme**

5. The objective of the Management Scheme is recast as follows : -

“The display of bills and posters on Government land including display of roadside publicity materials is an offence unless such display is with the written permission of the Authority by virtue of section 104A(1) of the Public Health and Municipal Services Ordinance, Cap.132. The Management Scheme aims at ensuring that the display of roadside publicity materials:

- (a) is for the purpose of the promotion of public awareness of matters of general and significant community interests of non-commercial

nature. In this connection, priority will be given to such display which is by LegCo and DC Members to communicate with their constituents, which seeks to promote public awareness or participation in matters of district administration and community building, and which is by the Government to promote important public events and campaigns such as the East Asian Games, “Keep Hong Kong Clean” and “Anti Drug Abuse”;

- (b) is permitted in an orderly fashion for those classes of persons specified in the Management Scheme at spots designated by the Authority;
- (c) will not prejudice the safety of pedestrians and motorists using the road concerned; and
- (d) is subject to such other terms and conditions provided in the Management Scheme such as the maintenance and removal of the banners.”

#### The Revised Guidelines

6. In the light of the objective as articulated in paragraph 5, the contents of the publicity materials to be set out in the revised guidelines are as follows : -

#### *Content of Publicity Materials*

- 7. (a) The display of roadside publicity materials is for the purpose of the promotion of public awareness of matters of general and significant community interest of non-commercial nature. In this connection, priority will be given to such display :
  - (i) which is by LegCo and DC Members to communicate with their constituents;
  - (ii) which seeks to promote public awareness or participation in matters of district administration and community building; and
  - (iii) which is by the Government to promote important public events and campaigns such as the East Asia Games, “Keep Hong Kong Clean” and “Anti-Drug Abuse”.
- (b) The information imparted must also follow the requirements

below:

- (i) The information must not promote any commodities, services provided at a fee, fee paying training courses and activities. (However, the restriction does not apply to services, training courses and activities co-organised by government departments. For these cases, written confirmation from concerned government departments is required.)
  - (ii) Transfer, loaning out or assignment of the designated spots is not allowed.
  - (iii) There should be conspicuous acknowledgement of the individual or organisation allocated the spot. The individual or organisation must be the chief beneficiary of the display.
  - (iv) The contents of the publicity materials to be displayed shall be in compliance with the laws of the Hong Kong Special Administrative Region. No publicity materials of an obscene or objectionable nature shall be displayed.
- (c) The approval of applications does not imply the Government of the Hong Kong Special Administrative Region or its officers approve the contents of the publicity materials.
- (d) No commercial advertisement shall be permitted.

*Classes of persons to be specified as users*

8. The recast objective in paragraph 5 will continue to allow the following classes of persons to be specified as users who may apply for the use of designated spots:

- (a) LegCo Members;
- (b) DC Members;

(c) DCs, DCs' Committees and Government departments (subject to availability); and

(d) Non-profit making bodies<sup>1</sup> (subject to availability).

Approval given to users in (a) and (b) above will cover the tenure of their term with their Councils concerned. The period of approval for users in (c) will depend on the nature of events publicised. Approval given to users in (d), i.e. non-profit-making bodies, will cover a display period of two calendar months less the last 2 days.

### *Banner construction*

9. Furthermore, it is proposed that more information on the banner construction should be set out in the guidelines including the materials of the banner and its specifications so that banners displayed at public locations could look neat and tidy; better withstand the normal wear and tear outdoors and would not easily come loose in poor weather. The allocatees will be required to certify that the banners have met the specifications and will conduct regular inspection ensuring that the banners are in good conditions. Details of the proposed banner construction is at **Annex B**.

### Number of Designated Spots

10. Based on the principle and quota agreed (varies between districts) during earlier round of consultation with the users and subsequent liaison between individual District Lands Offices (DLOs) and the users, there need to be at least **18,488 banner spots to meet the total committed demand**. Such demand has been met as there are a total of 22,362 spots in the whole territory including (a) 2,956 spots at central dividers; (b) 3,206 spots close to (i.e. within 10m on the traffic downstream side of) pedestrian crossings/road junctions; and (c) 16,200 other spots (other than at central dividers or close to pedestrian crossings/road junctions).

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<sup>1</sup> Non-profit making bodies include non-governmental organisations (NGOs) and charitable bodies either subvented by government or exempted from paying tax under Section 88 of the Inland Revenue Ordinance, Cap. 112, organisations registered under the Societies Ordinance, Cap. 151, trade unions registered under the Trade Unions Ordinance, Cap. 332 and the Trade Union Registration Regulations, Cap. 332A. A successful applicant may be allocated a maximum of 5 spots for each application.

### Location of Banner Spots

11. Under the prevailing arrangement agreed with the TD, no banner spot will be located at the prohibition zones (i.e. the Safety Zone in the Implementation Guidelines of the current Management Scheme) which include (a) the sections of roadside railings within 30m on the traffic upstream side of pedestrian crossings/road junctions (with the exception that banner spots within a one-way street will not be subject of the 30-metre safety restriction if they do not obstruct the views of drivers getting on to a major road); and (b) the sections of central dividers within 30m on both the traffic upstream and downstream sides of pedestrian crossings/road junctions because 30m is considered as the shortest stopping distance required by a general motorist to think and to stop his car after he has seen the danger on a road with a speed of 50km/h.

12. TD has also reviewed the road safety implications of roadside banners with reference to the relevant overseas practices and The Ombudsman's advice, and recommends that the existing prohibition zones as mentioned in paragraph 11 above should be extended to (a) within 10m of the traffic downstream side of pedestrian crossings/road junctions, and (b) the remaining sections of central dividers.

13. Junctions and pedestrian crossing points are locations where drivers are required to be more attentive to the road environment. If a driver has a direct sight on publicity materials, particularly at a cross-road junction during turning movement, his/her attention will be greatly distracted. Publicity materials at the traffic downstream side adjacent to a pedestrian crossing may distract pedestrians' attention to the traffic conditions. This is particularly the case for publicity materials at the downstream side of traffic because the attention of pedestrians is drawn away from the side from where the vehicles are approaching. The presence of banners at the 10m downstream side of a junction could also obstruct the visibility of drivers on potential hazards at bends immediately after the junctions. A 10m clear zone enables drivers to see and react properly to sudden occurrence of hazard such as young children suddenly stepping into the pedestrian crossing from behind roadside publicity materials that could otherwise be erected within the zone.

14. Banners installed at central dividers are distractions to drivers at the far

side lane adjacent to central divider. These drivers tend to drive faster because their vehicles would not be subject to potential interference by kerb-side activities. Given their higher speed, the likely consequence of a traffic accident could be more severe. Moreover, there could be additional road safety and traffic disruption during the installation or maintenance of banners at these locations, loosened banners at central dividers would stay longer because of the inaccessibility and the difficulty to rectify them. When the publicity materials mounted along central divider become loosen, they are hazardous to road safety. When such unexpected intrusion occurs, the motorists may react abruptly (e.g. stopping or changing lane abruptly) which could cause accidents.

15. In Islands District, there are a total of 1 072 spots including (a) 8 spots at central dividers; (b) 30 spots close to (i.e. within 10m on the traffic downstream side of) pedestrian crossings/road junctions; and (c) 1 034 other spots (other than at central dividers or close to pedestrians crossing/ road junctions).

16. LandsD is able to identify replacement spots at different locations to replace the designated spots deleted. Therefore, the existing quota allocated to specified classes of users will not be affected. (Please see **Annex C** for the existing quota.)

### **Consultation**

17. The Government, through TD, sought the views of the motorist associations/road safety concern groups and academics in July this year on the two recommendations set out in paragraph 12. The consultees generally support the proposed changes from the traffic safety grounds. The Government has also conducted a public opinion survey in May 2010. The results show that the public are largely in favour of the proposal to replace the existing banner spots at central dividers and those within 10m on the traffic downstream side of pedestrian crossings/road junctions.

### **Administration of the Management Scheme**

18. LandsD has been delegated the authority by the DFEH to authorize the

posting of publicity material under section 104A(1)(b) of the Public Health and Municipal Services Ordinance, Cap. 132. The FEHD is empowered, under section 104C(1) of the same Ordinance, to remove the bill or poster where it is displayed in contravention of section 104A(1)(b), or it is not maintained in a clean and tidy condition as required under section 104B(1).

19. LandsD and FEHD undertake regular joint clearance operations, in which LandsD staff would identify unauthorized banners displayed on Government land and FEHD staff would remove them and recover the cost of removal from liable persons if deemed practicable.

20. Commercial bills and posters displayed on Government land are invariably unauthorized because they are outside the scope of the Management Scheme and would be removed by FEHD.

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Lands Department, Transport Department, Food and Environmental Hygiene Department and Home Affairs Department

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