

立法會 CB(2)783/07-08(05)號文件
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**Employers'
Federation
of Hong Kong**
香港僱主聯合會

Ref.: G2008 - 002

8 January 2008

Hon Margaret Ng
Chairman
Bills Committee on Race Discrimination Bill
Legislative Council
Legislative Council Building
8 Jackson Road
Central, Hong Kong

Dear Ms Ng,

Committee Stage amendments (CSAs) to the Race Discrimination Bill

Thank you for inviting the Employers' Federation of Hong Kong to comment on the proposed Committee Stage amendments to the Bill and to attend the Bills Committee Meeting on 10 January 2008.

The Federation does not condone any form of inappropriate discrimination and as such is firmly of the view that discrimination on the grounds of race has no place in Hong Kong. As such the Federation broadly supports the aims of the Race Discrimination Bill, notwithstanding the fact that it will act as an additional cost for employers.

The Federation has no particular view on the majority of the CSAs put forward in the paper CB(2)2753/06-07(01). In particular the issue of the extent to which the legislation should bind the government and the application of the legislation to persons from the Mainland are policy issues on which the Federation does not wish to comment at this stage. Similarly, the application of the language exemption to the public sector is a matter for the public sector to consider.

However, we are concerned at the proposal to remove the distinction between "direct" and "indirect" discrimination. Such distinction exists in each of the current Ordinances dealing with discrimination. It also exists in many other common law jurisdictions. As such there is a body of caselaw which can be used by employers and by the regulator to understand the intricacies of this difficult law. Similarly the concept of "indirect" discrimination being lawful if it can be "justified" is a common concept which already exists in current legislation in Hong Kong and elsewhere.

As mentioned in our past submissions, there are practices commonly adopted in the business world that might be perceived as "discriminatory" but which are necessary for successful business operations.

As a world city competing in an increasingly globalised market, Hong Kong companies should be given sufficient flexibility to construct appropriate employment conditions in order to engage quality people without fear of being sued under the racial discrimination legislation by opportunistic employees. Removing the exemption of "justification" from the indirect discrimination will impose a greater burden on employers and will diminish Hong Kong competitiveness in Asia.

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Flexibility and positive non-intervention government policy are the crux for Hong Kong's success. Legislation without proper consideration on the real market practices will only hamper the development of Hong Kong economy. The Federation thus earnestly urges the Committee to reconsider the proposal amendment in relation to direct and indirect discrimination.

We look forward to discuss further with you and your committee members on 10 January. Meanwhile, please feel free to contact us if you need any clarification.

Yours sincerely,



Louis Pong
CEO