



Ref.: G2007 – 025

27 February 2007

The Hon Margaret Ng Ngoi Yee
Chairman
Bills Committee on Race Discrimination Bill
Legislative Council
Central, Hong Kong

Dear Ms Ng,

Race Discrimination Bill

The Employers' Federation of Hong Kong firmly believes that individuals should not be discriminated against on racial grounds. The draft Bill seeks to outlaw discriminatory behaviours on the ground of race and we consider it both reasonable and workable. Nonetheless, we also see the strong need to devote more resources to educating the community and developing a clear and user-friendly code of practice to facilitate the community's understanding and compliance with the law. The Federation looks forward to seeing the draft of such a code as soon as possible and is willing to contribute in this respect.

Meanwhile, we understand that there are views that several clauses in the Bill should be discarded so as to make it "fairer". The Federation would like to emphasise however that certain of such clauses relate to practices that are common in the business world and are prerequisites for successful business operations. One of these is the provision for exception in respect of expatriate remuneration. Offering expatriate remuneration is purely a business decision and different factors have to be taken into consideration when determining the remuneration package for an expatriate employee, e.g. the package he is getting or is likely to get in his country of origin. As a world city competing in an increasingly globalised market for talent, Hong Kong should allow companies the flexibility to construct competitive remuneration packages in order to engage quality people from outside without fear of being sued under the racial discrimination legislation by opportunistic employees. With population ageing becoming a serious problem around the globe, we see the pressing need for businesses to attract and retain talent, both local and overseas. Introducing legislation without taking this point into account would be inappropriate.

While language requirements would probably remain a barrier to non-English or non-Chinese speakers, e.g. those from South Asia, it is a fact that English and Chinese are still the most commonly used languages in the community. It would be neither realistic nor practicable to require goods and services to be provided in all languages. As a result, proficiency in the English or Chinese language will continue to be a genuine occupational qualification for certain industries and job positions. Language proficiency tests would therefore remain to be a necessary tool for employers in the screening of job applicants.

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The concept of “race, colour, descent or national or ethnic origin” is vague. The Federation is of the view that sufficient time should be given between the passing of the Bill and its coming into force for the administration to explain to all employers the concept and scope of the legislation and explain it to their staff. We envisage this would take at least 12 months.

We look forward to meeting with you and your committee members on 3 March to further exchange view on this Bill. In the meantime, please feel free to contact me if you need any further information.

Yours sincerely,

Louis Pong
CEO

c.c. Mr Duncan Abate