



香港記者協會
HONG KONG JOURNALISTS ASSOCIATION

Mr. Donald Tsang Yam-kuen
Chief Executive
The Government of the Hong Kong Special Administrative Region
Government House
Upper Albert Road
Central, Hong Kong

6th April 2009

Dear Mr. Tsang,

I note that the Ombudsman is undertaking a review of the operation of the government's administrative code on access to information. We note that the former Ombudsman, Ms Alice Tai, stated that "the apparent lack of understanding among some departments calls for an examination of the system for administering the code". We further note the comment by the office's senior manager, Kathleen Chan, that some officers may first "see what reason there is to withhold information", rather than comply with the code.

The Hong Kong Journalists Association (HKJA) has long argued that an administrative code - without the force of law - is not sufficient to ensure that people can gain access to government information. Indeed, in late 1997, we tested the government by seeking 81 official documents. Only 28 were given in full and seven in part. A total of 46 were either withheld or not available. That was a far from satisfactory response.

We feel that there are fundamental flaws in the system and we await with interest the results of the Ombudsman's investigation.

In the meantime, we urge you to order the preparation of a consultation document outlining different approaches to freedom of information legislation, to allow a proper public debate on the issue.


We believe legislation is essential for ensuring stronger democracy and promoting open and accountable government. It should set out clear principles on maximum disclosure of documents and information, minimal exceptions and an effective appeal mechanism, with final recourse to the courts.

We note that some work has already been done in this area. For example, three former legislators, Christine Loh, Simon Ip and Jimmy McGregor, published a draft Access to Information Bill in early 1994. However, the colonial government decided that an administrative code was the best option for the territory.

That decision was based on the use by Britain of an administrative code. However, the U.K. has since enacted its own access law. We would also note that China has made progress in bringing into force regulations governing access to information. Hong Kong lags far behind.

We hope you can provide leadership in this important area - and come up with a consultation paper on freedom of information legislation as soon as possible - but no later than in the immediate aftermath of the publication of the Ombudsman's report.

Yours sincerely,

A handwritten signature in black ink, reading "Tam Chi-keung". The signature is written in a cursive, flowing style.

Dr. Camoes Tam Chi-keung
Chairperson
Hong Kong Journalists Association

c.c. Secretary for Constitutional and Mainland Affairs
Ombudsman
Chairman, Legco Constitutional Affairs Panel