

本署檔號 Our Ref.: CAB C1/30/2/1
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電話 Tel: 2810 2064
圖文傳真 Fax: 2840 1976

2 September 1999

Clerk to Bills Committee
(Attn : Mrs Percy MA)
Legislative Council
Legislative Council Building
8 Jackson Road
Central
Hong Kong

Dear Mrs MA,

**Bills Committee on
Elections (Corrupt and Illegal Conduct) Bill**

Thank you for your letter of 25 August enclosing the letter from the Newspaper Society of Hong Kong expressing their views on the Elections (Corrupt and Illegal Conduct) Bill.

In essence, the Society suggests that only neutral advertisement should be allowed in newspapers because it will be difficult for a newspaper publisher to ascertain whether :

- (a) an election advertisement ("EA") will have the effect of promoting or prejudicing the election of a candidate; and
- (b) two copies of the EA have been lodged with the Returning Officer.

To uphold the principle of open election, candidates should be given the flexibility in utilizing different channels for publicity at elections. As such, we do not consider the Society's proposal appropriate.

Under clause 34 of the Bill, a person who publishes an EA has to meet two requirements, namely to ensure that the EA shows the relevant printing details (name and address of printer, date of printing and number of copies printed) and to lodge two copies of the EA with the Returning Officer. These are procedural requirements which do not impose any restriction on the contents of the EA. The purpose of these requirements is to enable inspection and monitoring of the EA by the public and candidates.

For an EA placed in a newspaper, the requirement on printing details has already been waived under clause 34(2) as such details will be apparent to the public. Regarding the Society's concern on the lodgement requirement, one possible solution is to make it clear in the Bill that for a paid EA placed in a newspaper, the liability for lodgement rests with the person placing the EA. With these modifications, newspaper publishers need not be concerned about whether a paid advertisement is an EA. We would like to hear Members' views on this matter.

In response to Members' concerns raised at earlier meetings, we have already proposed to amend the definition of EA by replacing the "effect" test with a "purpose" test. We have also suggested to revise the deadline for lodging two copies of an EA with the Returning Officers to "within 7 days after publication".

Yours sincerely,

(Tony W P CHENG)
for Secretary for Constitutional Affairs