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7 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 3 September seeking our comments on the Hong Kong Journalists Association's views on the Bill.

In essence, the Association has the following concerns:

- (a) The existing definition of election advertisement ("EA") may not reflect clearly the intention to exclude editorial materials in the media;
- (b) While an EA published in a local newspaper is exempted from the printing details requirement under clause 34(2), the requirement to lodge two copies of the EA with the returning officer still applies; and
- (c) The exemption under clause 34(2) does not apply to EAs published in foreign newspapers circulating in Hong Kong.

In response to Members' concerns on the definition of EA at earlier meetings, we have already proposed to amend it by replacing the "effect" test with a "purpose" test. With this amendment, the media carrying out their normal and ongoing activities of reporting and commenting on public affairs in a fair and objective manner will not be caught.

The Association's concern on the lodgement requirement is similar to the concern expressed by the Newspaper Society of Hong Kong. As suggested in our earlier reply dated 2 September in response to the Society's comments, one possible solution is to make it clear in the Bill that for a paid EA placed in a local newspaper, the liability for lodgement rests with the person placing the EA. We would like to hear Members' views on this matter.

We do not consider it appropriate to extend the exemption on printing details requirement under clause 34(2) to an EA placed in a foreign newspaper circulated in Hong Kong. For local newspapers, they need to register under the Registration of Local Newspapers Ordinance. In order to get registered, a newspaper has to provide detailed information such as names of proprietor, printer and publisher and to comply with regulations made under the Ordinance. However, foreign newspapers circulating in Hong Kong do not need to be registered and they are not subject to the provisions of the Ordinance. Hence, it may be difficult for the public and candidates to ascertain the relevant printing details. Therefore, we consider it undesirable to extend the exemption in clause 34(2) to foreign newspapers.

Yours sincerely,

(Tony W P CHENG)
for Secretary for Constitutional Affairs