

立法會
Legislative Council

LC Paper No. CB(2)653/99-00

(These minutes have been
seen by the Administration)

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LegCo Panel on Home Affairs

**Minutes of special meeting
held on Monday, 26 April 1999 at 2:30 pm
in the Chamber of the Legislative Council Building**

- Members Present** :
- Hon CHOY So-yuk (Chairman)
 - Hon Albert HO Chun-yan (Deputy Chairman)
 - Hon Cyd HO Sau-lan
 - Hon Edward HO Sing-tin, JP
 - Hon LEE Wing-tat
 - Hon MA Fung-kwok
 - Hon James TO Kun-sun
 - Hon Christine LOH
 - Hon Mrs Sophie LEUNG LAU Yau-fun, JP
 - Hon Andrew WONG Wang-fat, JP
 - Hon Emily LAU Wai-hing, JP
 - Hon Andrew CHENG Kar-foo
 - Hon Timothy FOK Tsun-ting, JP
- Members Absent** :
- Hon Ambrose CHEUNG Wing-sum, JP
 - Hon Gary CHENG Kai-nam
 - Hon Jasper TSANG Yok-sing, JP
 - Hon LAU Wong-fat, GBS, JP
 - Hon LAW Chi-kwong, JP
- Member Attending** :
- Hon Ronald ARCULLI, JP

- Public Officers :** Mr NG Hon-wah
Attending Principal Assistant Secretary for Home Affairs
- Mr Eddy CHAN
Commissioner for Television and Entertainment Licensing
- Attendance by :** Hong Kong News Executives' Association
Invitation Mr CHEUNG Kwai-yeung
- Hong Kong Chinese Press Association
- Mr HUE Pui-ying
- Hong Kong Journalists Association
- Mr LIU Kin-ming
Chairperson
- Hong Kong Press Photographers' Association
- Mr Leon SUEN Shu-kwan
- Mr YI Chiu-kwan
- Mr Tim HAMLETT, Associate Professor,
Department of Journalism,
Hong Kong Baptist University
- Mr LEUNG Wai-yin, Senior Professor,
Journalism and Communication Department,
Chinese University of Hong Kong
- Sing Pao Newspaper And Publications, Limited
- Mr YEUNG Kam-kuen

Chief Editor

South China Morning Post

Mr Robin BOWMAN
Executive Editor

Hong Kong Daily News

Mr CHEUNG Wai-tak
Editor-in-Chief

Clerk in Attendance : Mrs Constance LI
Chief Assistant Secretary (2) 2

Staff in Attendance : Mr Stephen LAM
Assistant Legal Adviser 4

Miss Flora TAI
Senior Assistant Secretary (2) 2

I. Opening remarks

The Chairman welcomed representatives of the deputations and the Administration for attending the special meeting. The Chairman said that members were concerned about the recent deterioration of professional ethics of newspapers as evidenced by the increased incidents of publication of articles and photographs of a violent or indecent/obscene nature in newspapers. A special meeting was therefore convened to invite newspaper practitioners and journalists' associations to express their views and discuss ways to address the problem.

II. Meeting with deputations

Hong Kong News Executives' Association
[Paper No. CB(2)1785/98-99(01)]

2. At the Chairman's invitation, representative of the Hong Kong News Executives' Association (HKNEA) briefed members on the written submission.

He stressed that it was HKNEA's position that legislative control over the media was inappropriate as this would jeopardise press freedom. HKNEA would prefer self-regulation in dealing with the problem of declining reporting standards and publication of obscene and indecent articles or photographs in newspapers. Representative of HKNEA said that HKNEA was now preparing a draft Code of Ethics for news practitioners and would widely consult news executives of the media, media proprietors and the general public.

Hong Kong Chinese Press Association

[Paper No. CB(2)1791/98-99(01)]

3. Chairman of the Hong Kong Chinese Press Association (HKCPA) briefed members on the written submission. He said that HKCPA would welcome public comments and suggestions of Members of the Legislative Council (LegCo) on the professional ethics of newspapers. HKCPA's position was that self-regulation rather than legislative control would be the effective and proper means to address the problem.

4. Chairman of CPA stressed that self-regulation of the media industry would require the co-operation of both news practitioners and media proprietors. He therefore supported the idea of joint ventures of news associations to promote and improve professional ethics, for example, organization of seminars on professional ethics to exert more influence on the industry.

Hong Kong Journalists Association

[Paper No. CB(2)1808/98-99(01)]

5. Members noted the written submission of the Hong Kong Journalists Association (HKJA). HKJA Chairman said that those media workers who did not abide by the professional ethics and who failed to perform properly the job of a media professional were not entitled to press freedom. He stressed, however, that there should not be legislative control over the media. He also expressed reservations about the idea of a media monitoring council with government participation as this would hamper press freedom and open the gate for restriction on expression. To address the problem of media practitioners not upholding the professional ethics, HKJA Chairman suggested the following measures -

- (a) media proprietors must be aware of their social responsibility and should not run the business purely on commercial principles;
- (b) each media body should have a set of ethics for compliance by its staff;

- (c) all Chinese newspapers should provide a public forum such as "Letters to the Editor" or set up an ombudsman system to receive complaints and feedback from readers; and
- (d) more efforts should be made to enhance the quality of the audience or readers in order to exert pressure on media proprietors to exercise self-regulation.

Hong Kong Press Photographers' Association

6. Representative of the Hong Kong Press Photographers' Association (HKPPA) said that HKPPA attached great value to press freedom and considered it important for the mass media to exercise self-regulation to maintain quality reporting. Representative of HKPPA noted that some newspapers had changed their reporting approach but the general public had remained silent on the situation of declining ethical standard in reporting. He stressed that public monitoring and self-awareness of the media practitioners were important in exerting pressure on newspaper proprietors.

Mr Tim HAMLETT

[Paper No. CB(2)1785/98-99(02)]

7. Mr Tim HAMLETT briefed members on his written submission which represented his personal views. Mr HAMLETT said that Hong Kong was not different from other places in that there were constant complaints about popular newspapers. However, readers in Hong Kong could choose from among various newspapers. He stressed that there must be a critical and deserving readership for upholding media ethics. He suggested that training of journalists, public education and encouragement to the media would help upholding quality and serious reporting. Regarding the role of the Obscene Articles Tribunal (OAT), Mr HAMLETT said that OAT was primarily targetted at magazines and publications rather than newspapers, and that the existing piece-meal approach to regulate individual articles or photographs in newspapers out of context was unsatisfactory.

Mr LEUNG Wai-yin

8. Mr LEUNG Wai-yin said that he attended the meeting in his personal capacity and his views did not represent that of the Journalism and Communication Department of the Chinese University of Hong Kong. Mr LEUNG said that Hong Kong had all along enjoyed a high degree of freedom of expression with minimum legislative or governmental control. Unfortunately, there were incidents recently that the mass media had abused the freedom. Mr LEUNG stressed that he always believed that market or reader pressure was more effective than legislative or governmental control in upholding media ethics. However, survey statistics had shown that the two

most criticised newspapers had the highest circulation figures, which indicated that the public or readers had not exercised the market force to uphold media ethics. He pointed out that the spirit of freedom of expression was to ensure freedom in the transmission of information for public good and in the public interest. He considered that news reports infringing personal privacy had abused press freedom. In this connection, Mr LEUNG suggested setting up a statutory body, to be modelled on the Consumer Council or the Office of the Ombudsman and exempt from regulation of the defamation law, to monitor media ethics by ways of receiving complaints, investigation and research studies. He explained that such a monitoring body would aim at exerting pressure on the media by exposing its shortcomings without imposing penalty, while maintaining a high degree of press freedom.

Sing Pao Newspaper and Publications, Limited

9. Chief Editor of the Sing Pao Newspapers and Publications, Limited informed members that Sing Pao had been published for sixty years and it had stringent in-house editorial guideline to uphold professional ethics. He said that it was his personal view that Hong Kong was a society of diversity and the press industry also reflected such diversity. It was therefore inappropriate to disparage one group of newspapers because they did not share the methods and values of the others. However, newspapers should operate within legal parameters and moral standards of the community. He shared the concern that the prevalence of “market-driven journalism” would compromise media ethics. The unhealthy competition of the industry had also created difficulties for the operation of newspapers. He believed that public monitoring and media education would have an impact on the media but would not agree to tightening control by legislation. In this connection, he urged Government to make more efforts in journalists training and public education. Government should also take appropriate enforcement action against publication of articles or photographs of an obscene and indecent nature based on existing legislation.

South China Morning Post

10. Executive Editor of the South China Morning Post said that he concurred with most of the views expressed by other deputations. He was not in favour of legislative control as this would be an over-reaction to a few cases of improper reporting or publication of indecent articles or photographs. He considered that legislative control would give a wrong message abroad that Hong Kong would have less press freedom. However, as most media behaviour was market-driven, a collective Code of Ethics for the press industry could achieve little effect in improving the situation of improper news reporting. He believed that only readers could exert pressure on the media to uphold media ethics as circulation figure was the principal concern of media proprietors. In this connection, public education, especially for the younger generation, was more important to enhance the quality of readers so that people

could make informed choices in buying newspapers.

Hong Kong Daily News

11. Publisher of the Hong Kong Daily News said that he agreed with other deputations that there should not be legislation to restrict press freedom. If the concern was about the bad taste of some newspapers which published photographs and articles infringing the personal privacy of individuals, Government should consider actions such as introducing legislation to protect the rights of individuals in this respect. He said that Government should provide resources for media education and assist in setting up a monitoring mechanism on the mass media to press for improvement of reporting standards and media ethics. He stressed that interactive communication between the public and the mass media would definitely help the media abide by their code of ethics.

12. Publisher of the Hong Kong Daily News further said that despite recent incidents of improper reporting and bad taste of some newspapers, Hong Kong remained to be the global centre of Chinese newspapers and Hong Kong media still enjoyed a high degree of credibility. He added that it would be more important for a news report to reflect the facts, and the selection of photographs was more of a matter of taste.

Other submissions

13. Members also noted that a Mr 徐濟時 had provided a written submission which was tabled at the meeting and issued to absent members vide Paper No. CB(2)1808/98-99(02).

Discussion

14. Miss Emily LAU expressed serious concern about the deterioration of reporting standard in newspapers and the publication of obscene/indecent articles and photographs. She welcomed the move of HKNEA to prepare a Code of Ethics for news practitioners, and asked whether the Code would be acceptable to and binding on the media industry. Representative of HKNEA responded that, through consultation and participation of the media industry, HKNEA hoped that the Code could be generally accepted by media practitioners. If such efforts failed, the next step would be to consider setting up a media monitoring council for upholding media ethics. With regard to the composition of HKNEA, representative of HKNEA said that the current executive committee of HKNEA comprised 11 members who were news practitioners from five electronic media and six newspapers.

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Noting that HKJA also had a code of ethics, Deputy Chairman asked whether it was feasible for HKNEA and HKJA

to draw up a unified code generally applicable to the whole industry. Representative of HKNEA replied that in drafting its code of ethics, HKNEA would also make reference to that of HKJA and overseas countries. He said that a unified code would be feasible as there had been similar joint ventures of journalists' organisations. For example, HKNEA, Hong Kong Federation of Journalists and Hong Kong Press Photographers' Association had issued a joint statement on the case of CHAN Kin-hong last year. In this connection, Chairman of HKJA commented that it would be difficult to require all media bodies to join hands and abide by a unified code, since many newspapers' representatives were absent even for discussions on the subject. Chief Editor of Sing Pao Newspaper and Publications Limited held similar views, pointing out that the media industry did not have a statutory professional body which could take effective disciplinary actions against breaches of a Code of Ethics.

15. HKJA Chairman informed members that HKJA had an ethics committee which was a disciplinary mechanism to receive and adjudicate complaints concerning media ethics. HKJA was considering publicizing the committee's adjudication with a view to exerting more pressure on media proprietors and practitioners.

16. Mr Edward HO expressed concern about the declining standard of media ethics as evidenced by the increasing incidence of improper reporting. He said that while everyone supported the principle of press freedom, there was also concern in the community about the trend of improper reporting by the media. He observed that the problem had existed for a considerable period of time, but there appeared to have no effective means to solve the problem. He could not agree with the view that the issue was simply a matter of taste which should be left entirely for readers to choose. He had noted the arguments of market force and self-regulation, but he considered that the media must operate within legal parameters and follow the moral standards of the community. Chairman of HKJA responded that there was no immediate solution to the problem of media ethics and that long-term joint efforts would be required. Representative of HKCPA said that self-regulation depended much on the co-operation of concerned parties and that he would support the idea of a media council to exert more influence on the industry.

17. Mr MA Fung-kwok said that press freedom was important but the problem of media ethics was deteriorating. He could not agree with HKNEA that recent incidents of improper reporting and publication of obscene articles and photographs were only isolated cases. In this respect, Mr MA queried the effectiveness of the existing mechanism such as the Code of Ethics adopted by HKJA.

18. To address members' concerns, the Chairman asked whether deputations had any views on the suggestion of setting up a media council with disciplinary powers. Chairman of HKJA responded that HKJA's ethics committee would

adjudicate complaints about media ethics based on its code of ethics. He admitted that some newspapers would simply ignore HKJA's request for response to complaints. However, he said that the case of CHAN Kin-hong had aroused much public concern and that public monitoring was an effective tool to uphold media ethics. He hoped that a media monitoring forum would be useful in gathering voices in the community. Chief Editor of Sing Pao agreed that public monitoring would be an effective means.

19. In response to Miss Emily LAU, representative of HKPPA informed members that where it came to HKPPA's attention that a newspaper had published nauseating photographs against the professional ethics, HKPPA would write to the concerned media body expressing objections. However, he pointed out that media proprietors often simply ignored HKPPA's complaint or threatened to take legal action against individual responsible persons of HKPPA. He said that the legal cost was a financial burden on HKPPA and its members. In response to Miss Emily LAU's further enquiry, representative of HKPPA said that as far as he could recall, HKPPA had not issued such complaint letters to media bodies in the past six months. In this regard, Deputy Chairman commented that disciplinary actions should be taken against any member who had breached the Code of Ethics, and that professional associations and media bodies should support individual journalists who faced the threat of legal action for complying with the professional ethics in reporting.

20. Miss Emily LAU reiterated her concern about the recent prevalence of photographs of a violent or indecent/obscene nature in newspapers. In response, representative of HKPPA clarified that many of those photographs published in newspapers were taken by different kinds of press photographers who were not news photographers. He admitted that there was very little HKPPA could do apart from refusing those photographers from joining the association. Representative of HKPPA pointed out that professional training was not a job requirement of press photographers who might therefore be unaware of or not required to abide by media ethics. He was of the view that the editors or news executives who were responsible for selecting photographers in newspapers should educate press photographers on the profession's ethical standards.

21. In view of deputations' emphasis on the importance of media education, Miss Cyd HO asked whether tertiary institutions could assist in promoting media ethics education in primary and secondary schools. Mr LEUNG Wai-yin replied that he had attended seminars on media ethics and news morality organised by Education Department for secondary school teachers. However, he was not aware of any regular education forum on the subject.

III. Meeting with the Administration

[Paper Nos. CB(2)1785/98-99(03) and CB(2)1793/98-99(01)]

22. At the invitation of the Chairman, Assistant Legal Adviser 4 briefed members on his paper on the legislative measures regulating publication of articles and photographs of a violent, indecent or obscene nature in newspapers [Paper No. CB(2)1793/9899(01)]. Members also noted the Administration's paper on "Regulation of Publication of Articles and Photographs of a Violent or Indecent/Obscene Nature" [Paper No. CB(2)1785/98-99(03)].

23. Concerning the increasing trend of publication of violent or indecent/obscene nature in newspapers, Mr Andrew CHENG expressed dissatisfaction that the Television and Entertainment Licensing Authority (TELA) had failed to take proactive action to enforce the Control of Obscene and Indecent Articles Ordinance (Cap. 390) (COIAO). The Commissioner, Television and Entertainment Licensing Authority (C/TELA) responded that the Administration regularly monitored the publication of articles and photographs of obscene/indecent nature in newspapers and magazines. Daily surveillance was made on newspapers and magazines; where a breach of COIAO was suspected, TELA would submit the articles concerned to Obscene Articles Tribunal (OAT) for classification. In 1997 and 1998, TELA had made 138 and 137 referrals respectively to OAT. In the first quarter of 1999, TELA referred 62 cases to OAT, 22 of which were classified as Class I, 12 were classified as Class II and 28 as Class III. In this regard, Miss Cyd HO expressed concern that the statutory requirements for indecent publications to be sealed in wrappers with a warning notice were not complied with by newspapers. The Commissioner responded that TELA had taken prosecution against the publisher of a newspaper for breaches of the statutory requirements. At Miss Cyd HO's request, the Commissioner undertook to provide more detailed information on the number of referrals concerning newspapers, the results of OAT classification and the range of penalty imposed in 1996 - 1998 for this category.

(Post-meeting note : The Administration had provided the requested information which was circulated to members vide LC Paper No. CB(2)1841/98-99.)

24. Mr Andrew CHENG asked about TELA's response to the comments made by the Director of Audit that TELA failed to provide systematic training to inspectors on classification standards and to effectively monitor the inspectors' performance. C/TELA responded that TELA accepted the Director of Audit's suggestions which would help improve the enforcement work of TELA. In this respect, TELA would arrange inspectors to visit the depository of OAT so that inspectors would have first-hand information on OAT's classification standard. TELA would also review the strategic planning for daily surveillance work based on the risk categories. Mr Andrew CHENG asked whether COIAO or the classification standards should be

reviewed to facilitate enforcement. C/TELA pointed out that the classification was made by OAT, which was an independent judicial body comprising a presiding magistrate and two or more members of the public serving as lay adjudicators. TELA could appeal against OAT classifications. He said that under COIAO, OAT was required to give regard to standards of morality, decency and propriety that were generally accepted by reasonable members of the community in making a ruling on classification. C/TELA added that TELA had commissioned Lingnan College to carry out an opinion survey on the enforcement of COIAO. The survey findings would be discussed at a coming meeting of the LegCo Panel on Information Technology and Broadcasting.

25. Referring to a court case years ago that a newspaper was charged with the offence of conspiracy to corrupt public moral for publication of ladies' names for sex services, Deputy Chairman asked whether similar action could be taken against some newspapers publishing sex services information. C/TELA replied that existing legislation did not provide for an offence of conspiracy to corrupt public moral. However, obscenity and indecency as defined in COIAO included violence, depravity and repulsiveness. Publication of any article classified as Class II by OAT must comply with certain statutory requirements whereas Class III articles were prohibited from publication. The Administration could submit newspapers for OAT for a classification ruling.

26. The Chairman also invited the Administration to respond to the views expressed by deputations. Principal Assistant Secretary for Home Affairs (PAS(HA)) said that the Administration shared the views of deputations that there should be minimum regulation and minimal governmental control in order to safeguard freedom of expression. He also informed members that the Privacy Subcommittee of the Law Reform Commission was now studying issues relating to intrusive reporting and press freedom. The Privacy Subcommittee would put forward its recommendations for public consultation.

27. Miss Cyd HO noted that deputations had emphasized the importance of public education in upholding media ethics. She asked whether the Administration had discussed with Education Department about any work plans to incorporate media education in primary and secondary school education. PAS(HA) responded that school was not the only venue for media education, and that he would check whether the guidelines for civic education already covered media education.

IV. Any other business

Clerk 28. The Chairman informed members that the Administration would brief the LegCo Panel on Information Technology and Broadcasting on the review of COIAO at its meeting on 10 May 1999 at 2:30pm. The Chairman suggested and members agreed that members of the LegCo Panel on Home Affairs should be invited to attend discussion at that meeting.

29. The Chairman thanked representatives of the deputations and the Administration for attending the meeting.

30. There being no other business, the meeting ended at 4:40pm.

Legislative Council Secretariat

5 October 1999