CHAPTER 10
ELECTION BROADCASTING, MEDIA REPORTING
AND ELECTION FORUMS

PART I : GENERAL

10.1 This chapter deals with election broadcasting through electronic means (which covers all programmes including those on current affairs and news reporting of the radio and television stations licensed under the Broadcasting Ordinance (Cap. 562) and the Telecommunications Ordinance (Cap. 106)), media reporting on election-related matters and the holding of any election forum. [Amended in September 2015]

IMPORTANT:
“Candidate” includes a person who has publicly declared an intention to stand for election at any time before the close of nominations for the election, whether or not he/she has submitted a nomination form [s 2 of the ECICO].

PART II : ELECTIONEERING ON TV AND RADIO

10.2 Operators of television broadcasting services licensed under the Broadcasting Ordinance (Cap. 562) are not allowed under the law to broadcast advertisements of a political nature. Operators of radio broadcasting services licensed under the Telecommunications Ordinance (Cap. 106) are not allowed under the Code of Practice issued by the Communications Authority to
broadcast advertisements of a political nature except with the prior approval of the Communications Authority.  [Amended in September 2011, September 2012 and September 2015]

10.3 Broadcasters licensed under the Broadcasting Ordinance (Cap. 562) and the Telecommunications Ordinance (Cap. 106) are required under the “fair and equal treatment” principle to handle any programmes relating to the election and candidates in compliance with the guidelines set out in this chapter and ensure that no favourable or unfavourable treatment will be given to any of the candidates.  [Added in September 2015]

10.4 For programmes the entire or part of the theme is on the election (e.g. for introducing the candidates or reporting/analysing the candidates’ election platforms and activities), the “fair and equal treatment” principle will apply.  In accordance with the “fair and equal treatment” principle, broadcasters should ensure that each of the candidates contesting in the same constituency will be introduced and reported in the programme and no favourable or unfavourable treatment will be given to any of the candidates.  [Amended in September 2011 and September 2015]

10.5 For current affairs or other programmes on TV and radio which are not election-related, candidates may take part as guests in these programmes insofar as their participation is pertinent to the subject matters of the programmes.  Under the “fair and equal treatment” principle, broadcasters should be careful to avoid giving unfair publicity to any candidates, and should be prepared to justify their choices of guests having regard to all the circumstances of the case, including the subject matter of the programmes, the candidates’ background and expertise, availability of other guests having similar background and expertise, etc.  [Amended in September 2015]
10.6 **No unfair advantage** should be **offered** to or **obtained** by any candidate over others regarding election campaigning.

10.7 To comply with the “fair and equal treatment” principle, when inviting a candidate to attend a programme the entire or part of the theme of which is on the election, broadcasters should invite all candidates contesting in the same constituency and include in the invitation a notice to the invitee that a similar invitation has been or will be made to other candidates of the same constituency, so as to give the invitees an equal opportunity to appear. The EAC also appeals to all candidates to attend these programmes as far as possible in order to enable electors and the public to be apprised of their election platforms. Some candidates may choose not to attend due to personal or other reasons. Under such circumstances, the relevant broadcaster, may continue with the production of the programme as planned without contravening the “fair and equal treatment” principle. The “fair and equal treatment” principle applies to the entire programme and, in particular, requires the broadcaster to give equal time to each of the candidates in that part of the programme to present his/her election platform. **A record should be kept by the broadcaster of the date, time and contents of the invitation and the notice until 3 months after the election.** To avoid any possible confusion, broadcasters should provide the audience of the programmes with clear information on the total number and the names of candidates in the same constituency. Furthermore, to ensure equal treatment to all candidates concerned, broadcasters should in particular take heed of the observations made by the Court in an election petition relating to the 2010 LegCo By-election as set out in Appendix J and, where appropriate, follow the arrangement set out therein when producing multi-episode programmes which are election-related.  

[Amended in September 2011 and September 2015]

10.8 If there is evidence to substantiate that the relevant broadcaster has provided/allowed favourable or unfavourable treatment to some candidates
in producing the programme the entire or part of the theme of which is on the election, such case will be regarded as a breach of “fair and equal treatment” principle.  \[Added in September 2011\]

10.9 The principles stated in paras. 10.4 to 10.8 above apply equally to political parties or political organisations of which the candidate is a member as they apply to the candidate himself/herself and to a prescribed body the registered name or registered emblem of which has been printed on any ballot paper for the election.

10.10 The aforesaid principles do not apply to programmes which are entirely news reporting and are not related to the candidates’ participation in the election. Nonetheless, the broadcaster is obliged to ensure fair treatment for all candidates and that no candidate is offered an unfair opportunity of publicity in all circumstances as required under paras. 10.4 and 10.5. \[Amended in September 2007, September 2011 and September 2015\]

10.11 During the election period (i.e. the period beginning with the commencement of the nomination for the election and ending with the polling day for the election), broadcasters should ensure that the “fair and equal treatment” principle is applied to all political parties or political organisations which have members contesting the DC election and the said prescribed bodies, whether or not contesting the same constituency. If a political party or political organisation whose members contest as candidates in the election is invited to take part in a current affairs or any other programme the entire or part of the theme of which is on the election, then all political parties or political organisations which have members contesting the DC election or a prescribed body the registered name or registered emblem of which has been printed on ballot paper for the election, whether or not contesting the same constituency, should also be invited. \[Amended in September 2007 and September 2011\]
10.12 The EAC appeals to broadcasters to treat all candidates competing in the same constituency fairly and equally when making comments on or reference to the candidates in any of their programmes. Comments made for the purpose of promoting or prejudicing a candidate or candidates are treated as election advertisements, if reference could be made from the materials to identify the candidate(s) being promoted or prejudiced [see also para. 7.10 of Chapter 7]. Moreover, if such comments are determined as election advertisements, the EAC will refer the matter to the Communications Authority for appropriate action. Where there is fair and equal treatment to all candidates of the same constituency, the editorial line of the broadcaster or personal opinions of the programme presenter on each of the candidates can be freely expressed, insofar as they are fair comments and based on true facts. The guidelines do not seek to impose any shackle on the expression of such ideas. However, as election is a solemn matter, to prevent any person from having a perception that favourable or unfavourable treatment is given to any candidate(s), broadcasters should ensure that in the expression of such ideas, no candidate, political parties or organisations to which the candidate belongs will be offered unfair extra publicity or advantage. [Amended in September 2011, September 2012 and September 2015]

Candidates Appearing on TV/Radio/Movie as Presenters, Regular Contributors, Actors, Musicians, Singers or Other Entertainers

10.13 A presenter, including a guest presenter, or a regular contributor should not appear in any programme in his/her normal programme role after he/she has publicly declared his/her intention to stand for the election or during the election period if he/she becomes a candidate. This is to avoid unfair extra publicity for him/her at the critical time. A presenter or regular contributor may, of course, appear as a candidate in election forums referred to in Part IV below.
10.14 A person who has contracted to appear as presenter, regular contributor, actor, musician, singer or any other form of entertainer in any performance scheduled to be shown before his/her declaration of intention to stand for the election or before and after the election period may always do so and continue to do so. However, such a person should make his/her utmost endeavours to request the person(s) responsible not to broadcast his/her appearance in any media after his/her declaration of intention to run for the election or during the election period if he/she becomes a candidate. The EAC appeals to the aforesaid responsible person(s) to accede to such a request as far as practicable in order to avoid giving unfair extra publicity to the person concerned.  

[Amended in September 2007 and September 2011]

Candidates Appearing in Commercial Advertisements

10.15 A person should not participate in the making of an advertisement in which his/her image, name or voice appears (“the relevant advertisement”) and which he/she knows will be broadcast on TV/radio/cinema after his/her declaration of intention to stand for the election or during the election period if he/she becomes a candidate.

10.16 If, after the relevant advertisement has been made, the person then decides to run in the election, and it comes to his/her attention that the relevant advertisement will appear in TV/radio/cinema after his/her declaration of intention to stand for the election or after the nomination period has commenced if he/she becomes a candidate during that period, he/she should make his/her utmost endeavours to request the person(s) responsible not to broadcast the relevant advertisement after his/her declaration of intention to stand for the election or during the election period. The EAC appeals to the aforesaid responsible person(s) to accede to such a request as far as practicable in order to avoid giving unfair extra publicity to the person concerned.  

[Amended in September 2007 and September 2011]
PART III : ADVERTISING THROUGH THE PRINT MEDIA

10.17 A candidate may advertise in the print media to promote his/her candidature. Where such an advertisement is placed in the print media and takes the form of a news report or any other form which does not clearly show that it is an election advertisement, the words “Election Advertisement” or “選舉廣告” must be stated in the advertisement, to avoid misunderstanding by readers that it is not an election advertisement [see para. 7.53 of Chapter 7]. The expenses so incurred must be accounted for in the return and declaration of election expenses and donations. Election advertisements printed in a registered local newspaper would be exempted from the requirement of bearing printing details [see also para. 7.52 of Chapter 7 for details]. The EAC appeals to all publishers to provide equal opportunity to all candidates competing in the same constituency for placing advertisement in the print media. [Amended in September 2007, September 2011 and September 2015]

10.18 The print media should ensure that, during the election period, any news reporting or reference made in its publications will not give unfair extra publicity to any particular candidate or particular candidates, or lead to a public perception that such reporting or reference is made for the publicity of a particular candidate or particular candidates. Therefore, publishers have the responsibility to handle carefully any news reporting or reference made in relation to the election or candidates, and ensure that no favourable or unfavourable treatment is given to any candidate in accordance with the “fair and equal treatment” principle. Nor should a candidate obtain from a publisher any unfair opportunity for publicity regarding election campaigning. Any publications (e.g. special newspaper editions or leaflets), whether for free or otherwise, which serve to promote or prejudice the election of a particular candidate or particular candidates may be construed as election advertisements for the candidate(s) concerned and are subject to the requirements for election
advertisements and election expenses as stipulated in Chapters 7 and 15. A publisher may also contravene the relevant legislation if the requirements for publishing and distributing election advertisements are not complied with prior to distributing such free publication. Candidates and publishers should consult their legal advisors if they have doubt as to whether a free publication should be treated as election advertisement and counted towards election expenses. [Amended in August 2008, September 2011 and September 2015]

10.19 A regular columnist should not contribute articles to the print media after he/she has publicly declared his/her intention to stand for the election or during the election period if he/she becomes a candidate. This is to avoid unfair extra publicity for them at the critical time. A person who has contracted to serve as columnist should make his/her utmost endeavours to request the person(s) responsible not to publish his/her commentaries in any media after his/her declaration of intention to run for the election or during the election period if he/she becomes a candidate. The EAC appeals to the aforesaid responsible person(s) to accede to such a request as far as practicable in order to avoid giving unfair extra publicity to the person concerned. A regular columnist may, of course, appear as candidate in election forums referred to in Part IV below. [Amended in September 2011]

10.20 As election is a solemn matter, the EAC appeals to members of the print media to provide **fair and equal treatment** to all candidates competing in the same constituency in the reporting of them or their electioneering activities. How fair and equal treatment is to be applied in practice is set out in **Appendix K**. In addition, when reporting candidates competing in the same constituency in different pages or issues of a publication, members of the print media should provide readers with clear information on the total number and names of candidates competing in the same constituency in the reports. If there is evidence to substantiate that the relevant print media has provided/allowed favourable or unfavourable
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treatment to a particular candidate or particular candidates in the publication, such case will be regarded as a breach of the “fair and equal treatment” principle and the publication is very likely to have the effect of promoting or prejudicing the election of the candidate(s) concerned and thus becomes an election advertisement of the candidate(s). The relevant acts might therefore be in breach of the statutory requirements on election advertisements and election expenses [see also Chapter 7 and Chapter 15] and both the print media and candidate(s) concerned may as a result be subject to criminal liability. [Amended in September 2011 and September 2015]

PART IV : ELECTION FORUMS

10.21 During the election period, broadcasters may organise election forums in their programmes. Broadcasters should ensure that the “fair and equal treatment” principle is applied to all candidates. If a candidate is invited to take part in the election forum, then all candidates of the same constituency should also be invited to be present at such forums so as to give the candidates an equal opportunity to attend the forum and present their election platforms. The “fair and equal treatment” principle applies to the production and conduct of the entire election forum and, in particular, requires the broadcaster to give each candidate in that part of the election forum equal time to present his/her election platform. Presenter(s) should treat each candidate in a courteous and fair manner at any time throughout the programme to avoid the impression that any particular candidate(s) is/are being treated favourably or unfavourably. [Amended in September 2011 and September 2015]

10.22 Other organisations, such as professional or trade organisations, academic institutions and schools, etc., may also organise election forums for civic education or other purposes. In line with the fair and equal treatment
principle, the EAC appeals to all these organisers to invite all candidates of the same constituency to be present at such forums, so that no unfair advantage will be accorded to or obtained by any candidate over others regarding election campaigning.  

10.23 The EAC appeals to all candidates to use their best endeavours to take part in election forums in order to enable electors and the public to be apprised of their platforms. Some candidates may choose not to attend due to personal or other reasons. Under such circumstances, the relevant forum organiser may continue to organise such activity as planned without contravening the “fair and equal treatment” principle.  

PART V : SANCTION

10.24 If the EAC comes to know of unfair or unequal treatment of candidates by any broadcaster, publisher or forum organiser, it may make a reprimand or censure in a public statement which will include the names of the candidates favourably and unfavourably treated and the broadcaster, publisher or forum organiser concerned. The EAC may also notify the relevant authorities for appropriate action to be taken. Moreover, the programme, news reporting or article concerned is very likely to have the effect of promoting or prejudicing the election of a particular candidate or particular candidates and thus become an election advertisement of the candidate(s). The relevant acts might therefore be in breach of the statutory requirements on election advertisements and election expenses [see also Chapter 7 and Chapter 15] and both the media and candidate(s) concerned may as a result be subject to criminal liability. The EAC will refer any cases involving possible breach of the legislation to the relevant law enforcement agencies for follow-up actions.
Therefore, the EAC appeals to broadcasters, publishers, forum organisers and candidates to strictly comply with the guidelines set out in this chapter and avoid any conduct which will cause public concern about the fairness of the election.  

[Amended in August 2008 and September 2015]

10.25 The candidates as mentioned in paras. 10.13 to 10.16 and 10.19 above should make their best endeavours as advised thereof to avoid taking unfair extra publicity. If the EAC receives a complaint about a candidate taking the aforesaid extra publicity and it is subsequently found that the candidate has failed to make such an endeavour, the EAC may make a reprimand or censure in a public statement against the candidate.  

[Added in September 2011]