

CHAPTER 12

ELECTION BROADCASTING, MEDIA REPORTING AND ELECTION FORUMS

PART I : GENERAL

12.1 The EAC reminds broadcasters (covering television and radio stations licensed under the Broadcasting Ordinance (Cap. 562) and the Telecommunications Ordinance (Cap. 106) respectively) and the print media that, during the election period (i.e. from the commencement of the nomination period up to the polling day for the election), in handling programmes and reports related to the election or candidates (including news reports, election forums, and feature reports), they should treat all candidates in accordance with **the fair and equal principle**. Comments and reports must be impartial to ensure that no favourable or unfavourable treatment be given to any candidate, and electors should be able to obtain sufficient election information through media reporting so as to make informed choices.

12.2 For news reports and feature reports related to elections, due to the considerable number of seats and candidates in the **ECC**, the media may have practical difficulties in mentioning all candidates of the constituency in the same programme or publication. Therefore, the media may provide in the programme or publication:

- (a) the total number of candidates in the constituency; and
- (b) the platform(s) maintained by the media (such as the webpage of the media organisation/programme/publication) in which the names of all candidates of the constituency are set out.

12.3 The guidelines in this chapter are not intended to regulate the contents of media reporting. If the media cover all the candidates fairly and equally, they can freely express opinions and comments based on facts.

12.4 **Most importantly, media organisations must ensure that their programmes or reports will not become EAs (i.e. promoting and prejudicing the election of a particular candidate or particular candidates) in order to avoid breaching s 23(1) of the ECICO by incurring election expenses because the publishers are not candidates or authorised election expense agents.**

NOTE :

As there are various means and platforms for different persons to publicly declare their intention to stand for the election, the media may have practical difficulties to fully grasp the information of all persons who have publicly announced their intention to stand for election. Therefore, this chapter specifically sets out a definition of “candidate” which is convenient for the media to apply in their operations.

In this chapter, “candidate” means a person whose nomination form has been received by the RO⁵⁴. **This definition applies only to this chapter and it is not a definition under any legislation, including s 2 of the ECICO** where “candidate” means a person who stands nominated as a candidate at an election and also means a person who, at any time before the close of nominations for an election, has publicly declared an intention to stand as a candidate at the election. This legislative provision is applicable to the requirements on candidates’ EAs and election expenses or other requirements under the ECICO. Please see Chapters 9 and 17 for details.

12.5 The media should act with self-discipline, goodwill and in a spirit of voluntary cooperation in publishing or broadcasting the results of exit polls and other election-related opinion polls. They must also refrain from announcing the results of exit polls or making specific remarks or predictions on the performance of individual candidate before the close of poll, so as to avoid electors’ voting behaviour from being unduly affected. Please see Part II of Chapter 16 for details.

⁵⁴ Upon receiving a nomination form, the RO must, as soon as practicable, forward the form to the CERC for determining the validity of nomination. Meanwhile, the details of the person concerned will be, on the same day when the RO receives the nomination form, uploaded onto the relevant election website for public information.

PART II : NEWS REPORTS

12.6 For news reports related to election, they could be reported independently even if they only cover individual candidate. However, the media should clearly provide the total number and names of candidates of all candidates of the **GCs and/or FCs concerned**. The arrangement is only applicable to GC and FC elections. For guidelines on the news reports of **ECC** candidates, please see para. 12.2 of this chapter.

12.7 News reports unrelated to the election could be reported truthfully, even if they involve individual candidates as long as their candidature is not mentioned. There is no need to mention other candidates of the same constituency.

PART III : ELECTION FORUMS

12.8 Broadcasters should invite all candidates of the same constituency to participate in election forums. If an individual candidate chooses not to attend, the broadcaster could proceed with the programme without contravening the principle of fair and equal treatment. The broadcaster must keep a record of the date, time and contents of the invitation and notice sent out until three months after the election.

12.9 The principle of fair and equal treatment does not require that the time for each participating candidate to express his views in the entire election forum

must be the same, but it requires broadcasters to give each candidate “equivalent time” in the session of presenting his election platform. For the sessions other than presenting his election platform, such as the debate session, each candidate may freely express his views on specific issues. It is of utmost importance that the host should, at any time throughout the programme, at his best effort to ensure that each candidate has the opportunity to express his views or make responses.

12.10 Other organisations or groups, such as professional bodies or trade organisations, academic institutions and schools, when holding election forums, should conduct in accordance with the principles outlined in paras.12.8 and 12.9 of this chapter and maintain relevant records.

12.11 The EAC appeals to all candidates to attend these election forums as far as possible so as to keep the public apprised of their election platforms.

PART IV : FEATURE REPORTS

12.12 When producing special programmes or interviews to introduce individual candidate, the media should clearly provide the total number and names of all candidates of the respective **GCs/FCs concerned**. For guidelines on feature reports on **ECC** candidates, please see para. 12.2 of this chapter.

12.13 When inviting a candidate for an interview, broadcasters must invite all candidates contesting in the same constituency to be interviewed so that the invited candidates have an equal opportunity to appear. If some candidates

choose not to accept the invitation, the broadcaster may proceed with the programme. Similarly, all records must be retained for three months after the election. Broadcasters, regardless of their airtime schedules, should provide equal opportunity and comparable time to each candidate in the same constituency.

12.14 Furthermore, to treat all candidates concerned fairly, broadcasters should in particular take heed of the opinion by the Court in an election petition relating to the 2010 LegCo By-election as set out in **Appendix 12**, and where appropriate, follow the arrangements set out in **Appendix 12** when producing an election-related feature report with more than one episode.

12.15 The print media should give candidates contesting in the same constituency an equal opportunity to be interviewed, or mention other candidates of the same constituency in an appropriate way. The mention does not necessarily to be in the same article, but the principle should be to facilitate readers to know other candidates. For instance, when an interview with a candidate is published on a newspaper, the names of other candidates of the same constituency may be listed on the same page of the report or on other pages. The print media may refer to the interpretation in **Appendix 13**, and accord equal opportunity as far as practicable to all candidates to ensure that the reporting will not prejudice a particular candidate, or cause the public to perceive that such reporting is promoting a particular candidate.

PART V : NON-ELECTION-RELATED PROGRAMMES AND ARTICLES

12.16 During the election period, candidates or representatives of their affiliated political parties, political organisations, or prescribed bodies whose registered names or emblems are to be printed on the ballot papers in the election may in a non-candidate capacity participate in interviews or programmes which are unrelated to the election in broadcasters or the print media. However, they must be invited based on their professional knowledge or past experience being closely related to the topic of the programme or interview. The broadcaster/print media should keep a record of documents to support its decision to invite that person, including the fact that there are no other more suitable guests, etc. The broadcaster/print media must ensure that no election-related topics (including the machinery of the election of the candidate) would be mentioned in the programme/article and no election-related materials (including badges and clothing) of the political party or political organisation to which the representative belongs would be displayed in order to avoid unfairness.

PART VI : AVOIDING UNFAIR PUBLICITY

12.17 During the election period, candidates **must not accept** any form of favourable treatment from media organisations. If a candidate has more opportunities for publicity than others due to his background or occupation, he should make every effort to avoid such publicity to avoid unfairness.

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

12.18 A presenter, including a guest presenter, or a regular contributor should not participate in any programme in such a capacity after he has publicly declared his intention to stand for election or during the election period (if he becomes a candidate), so as to avoid promoting himself at the critical time. However, he may participate as candidate in election forums as described in Part III of this chapter.

12.19 A person who in order to fulfil a contract appears as presenter, regular contributor, actor, musician, singer or any other form of performer in any performance scheduled before his declaration of intention to stand for election or before and after the election period may always do so and continue to do so. However, the person should make his utmost endeavours to request the person(s)-in-charge of the performance not to broadcast his appearance in any media after his declaration of intention to stand for election or during the election period (if he becomes a candidate). The EAC appeals to the aforesaid person(s)-in-charge to accede to such a request as far as practicable in order to avoid unfairness.

Candidates Appearing in Commercial Advertisements

12.20 If a person is involved in the production of an advertisement in which his image, name or voice appears, and he knows that the advertisement will be broadcast on television/radio/cinema after he has publicly declared his intention

to stand for election or during the election period (if he becomes a candidate), he should not participate in the production of the advertisement.

12.21 If a candidate decides to stand for an election after the advertisement in which his image, name or voice appears has been made, and he knows that the advertisement will be broadcast on television/radio/cinema after his declaration of intention to stand for election or during the election period (if he becomes a candidate), he should make his utmost endeavours to request the person(s)-in-charge not to broadcast the relevant advertisement after his declaration of intention to stand for election or during the election period. The EAC appeals to the aforesaid person(s)-in-charge to accede to such a request as far as practicable in order to avoid unfairness.

Candidates Contributing Regularly to Print Media

12.22 A regular columnist should not contribute articles to the print media after he has publicly declared his intention to stand for election or during the election period (if he becomes a candidate). A columnist who has to regularly contribute articles to fulfil a contract should make his utmost endeavours to request the person(s)-in-charge not to publish his commentaries in any media after his declaration of intention to stand for election or during the election period (if he becomes a candidate). The EAC appeals to the aforesaid person(s)-in-charge to accede to such a request as far as practicable in order to avoid unfairness.

PART VII : PLACING ELECTION ADVERTISEMENTS IN MEDIA

12.23 Under the law, television stations licensed under the Broadcasting Ordinance are not allowed to broadcast advertisements of a political nature. According to the Code of Practice issued by the Communications Authority, radio stations licensed under the Telecommunications Ordinance are not allowed to broadcast advertisements of a political nature unless prior approval is obtained.

12.24 Candidates who publish EAs through the print media must also comply with the provisions set out in Part VIII of Chapter 9. If the EA is made in the form of a news report or any other form which does not clearly show that it is an EA, the words “**Election Advertisement**” or “選舉廣告” must be stated therein. The expenses so incurred must be accounted for in the return and declaration of election expenses and elections donations. The EAC appeals to all members of the print media to give all candidates contesting in the same constituency **equal opportunity** for placing EAs in the print media.

PART VIII : SANCTION

12.25 The EAC, when assessing whether news reports or feature reports by the media (including broadcasters and print media) violate the principle of fair and equal treatment, will take into account the overall coverage by the relevant organisation during the election period.

12.26 If the EAC found any broadcaster, member of the print media or forum organiser who treated the candidates in an unfair or unequal manner, EAC may make **reprimand** or **censure** in a public statement, and publish the names of the candidates who have received favourable or unfavourable treatment as well as the names of the broadcaster, member of the print media or forum organiser concerned. The EAC may also notify the relevant authorities for appropriate action to be taken. Moreover, the programme, news report or article concerned may very likely have the effect of promoting or prejudicing the election of a particular candidate or particular candidates and thus be construed as an EA for the candidate(s) concerned. As such, it may contravene the statutory requirements on EAs and election expenses (see Chapters 9 and 17), and both the media organisation and candidate(s) concerned may be subject to criminal liability. The EAC will refer cases of possible breaches to the relevant law enforcement agencies for follow-up. In view of the above, the EAC appeals to all broadcasters, members of the print media, forum organisers and candidates to strictly comply with the guidelines set out in this chapter to avoid any conduct which will cause public concern about the fairness of the election.