

CHAPTER 10

ELECTION BROADCASTING, MEDIA REPORTING AND ELECTION FORUMS

PART I : GENERAL

10.1 Based on the **principle of fair and equal treatment**, the EAC promulgates the guidelines for election-related programmes and reports, including news reports, election forums and feature reports, produced and published by broadcasters (covering television and radio stations licensed under the Broadcasting Ordinance (Cap. 562) and the Telecommunications Ordinance (Cap. 106) respectively) and the print media.

10.2 The EAC highly respects the freedom of the press and hopes that electors are able to obtain sufficient election information through media reporting for making informed choices. In setting out the guidelines in this chapter, the EAC does not seek to regulate the contents of media reporting, but aims to ensure a fair and equal opportunity of media coverage for all candidates.

10.3 During the election period (i.e. from the commencement of the nomination period up to the close of the poll), the media should treat all candidates in accordance with the **principle of fair and equal treatment** in handling programmes and reports relating to the election and candidates and ensure that no favourable or unfavourable treatment is given to any candidates.

10.4 Provided that fair and equal treatment is given in reporting all candidates, the media can freely express opinions and comments based on facts in approval or disapproval of the election platforms of individual candidates.

10.5 **Most importantly, media organisations should ensure that their programmes or reports will not become EAs (i.e. promoting or prejudicing the election of a particular candidate or particular candidates) in order to avoid breaching the law and legal requirements against the incurring of election expenses by persons other than candidates or authorised election expense agents. Please see Chapters 7 and 15.**

IMPORTANT :

The definition of “candidate” in this chapter (i.e. Chapter 10) is different from the definition under s 2 of the ECICO. According to s 2 of the ECICO, “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, election expenses or other requirements under the ECICO.

For the purpose of the principle of fair and equal treatment of candidates under the guidelines in this chapter (i.e. Chapter 10), “candidate” means a person whose nomination form has been received by the RO³¹. Given the diverse means and platforms employed by different persons to publicly declare their intention to stand for election, the media may have practical difficulties in obtaining full information on all such persons. Hence, a definition of “candidate” for the operational convenience of the media is specially given in this chapter. The media may, based on the list of candidates (whose nomination forms have been

³¹ Particulars of the person being nominated will be uploaded onto the relevant election website for public information after the RO receives the nomination form.

received by the RO) provided on the election website, treat all the candidates of the same Rural Area in accordance with the principle of fair and equal treatment. **It should be noted that the definition of “candidate” in this chapter is only an operational definition for the purpose of the implementation of the principle of fair and equal treatment, but is not a legal definition under any legislation.** In the aspect of legislation, as mentioned above, for compliance with the requirements on EAs, election expenses or other requirements under the ECICO, the definition of “candidate” under s 2 of the ECICO prevails.

PART II : NEWS REPORTS (BROADCASTERS AND PRINT MEDIA)

10.6 News report means the report of events happening on the day or of a recent period.

10.7 The media should follow **the principle of fair and equal treatment** in reporting news relating to the election and the candidates. However, the requirement of equivalent time/number of words is not applicable.

10.8 Election-related news involving a particular candidate can be reported by itself even if no other news on other candidates is carried that day. However, the other candidates of the same Rural Area must at least be mentioned. The mention should be made in the same programme or publication by the media in an appropriate way. It may not necessarily appear within the content of the same report, but in principle, should enable the viewers, listeners or readers to be informed of the other candidates.

10.9 For the KFR election, due to the considerable number of seats and candidates involved, the media may have practical difficulties in mentioning all the other candidates of the same MT in the same programme or publication. Therefore, the media may choose to provide viewers, listeners or readers with the total number of candidates of the same MT during the programme or in the publication, and mention the platform maintained by the media (such as the webpage of the organisation/programme/publication) where the names of the other candidates of the relevant MT can be found. For the avoidance of doubt, this arrangement is not applicable to ReR and IIR.

10.10 News unrelated to the election, even if a candidate is involved, can be factually reported, as long as the status as a candidate is not mentioned in the report. Reference to other candidates of the same Rural Area need not be made. In any case, the relevant news reporting should not give favourable or unfavourable treatment to any candidates.

10.11 When determining whether any news reporting by the media is in breach of the principle of fair and equal treatment, the EAC may take into consideration the overall reporting by the media organisation during the election period.

PART III : ELECTION FORUMS

10.12 During the election period, broadcasters may organise election forums. Broadcasters should ensure that the principle of fair and equal treatment is applied to all candidates. If a candidate is invited to take part in an election forum, then all candidates of the same Rural Area should also be invited so as to give them an equal opportunity to attend the forum and present their election platforms. Some candidates may choose not to attend due to personal or other reasons. Under such circumstances, the broadcaster may

proceed with the programme without contravening the principle of fair and equal treatment. A record must be kept by the broadcaster of the date, time and contents of the invitation and notice until 3 months after the election.

10.13 The entire election forum should be produced and conducted by the broadcaster according to the principle of fair and equal treatment. The principle does not require broadcasters to give each participating candidate “equal time” in the entire election forum, but it requires broadcasters to give each candidate “equivalent time” in the relevant session of the forum to present his/her election platform. For other sessions of the forum, such as the debate session in which each candidate may freely express his/her views on specific issues, it is of utmost importance that the presenter should try his/her best to ensure that each candidate has the opportunity to express views or make responses in accordance with the principle of fair and equal treatment at any time throughout the programme.

10.14 Other organisations or groups, such as professional bodies or trade organisations, academic institutions or schools, may also organise election forums for promoting civic education or other purposes. In line with the principle of fair and equal treatment of candidates, the EAC appeals to all organisers to invite all candidates of the same Rural Area to attend these forums, so that no unfair advantage will be accorded to or obtained by any candidate over others regarding election campaigning. Some candidates may choose not to attend due to personal or other reasons. Under such circumstances, the forum organiser may proceed with the activity without contravening the principle of fair and equal treatment. Information and records relating to the invitation must be kept by the relevant organisation or group until 3 months after the election.

10.15 Broadcasters and other organisations or groups, during the conduct of election forums, should not give favourable or unfavourable

treatment to any candidate, causing unfairness to any candidate.

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

PART IV : FEATURE REPORTS (BROADCASTERS)

10.17 In line with the principle of fair and equal treatment, when producing a feature programme or interview to introduce individual candidates, whether in news bulletins or during the airtime of other programmes, broadcasters should give an equal opportunity and comparable time to all the candidates of the same Rural Area.

10.18 When inviting any candidate to an interview, broadcasters should invite all candidates contesting in the same Rural Area and give them an equal opportunity to appear in interviews. The EAC appeals to all candidates to accept invitations to interviews 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 accept the invitations due to personal or other reasons. Under such circumstances, the broadcaster may proceed with the programme without contravening the principle of fair and equal treatment. A record must be kept by the broadcaster of the date, time and contents of the invitation and the notice until 3 months after the election.

10.19 To avoid any possible misunderstanding, broadcasters should provide the audience of the programmes with clear information on the total number and names of candidates in the same Rural Area. Nevertheless, for the KFR election, due to the considerable number of seats and candidates involved, the broadcasters may have practical difficulties in mentioning all the

other candidates of the same MT in the same programme. Therefore, the broadcasters may choose to provide viewers or listeners with the total number of candidates of the same MT during the programme, and mention the platform maintained by the broadcasters (such as the webpage of the organisation/programme) where the names of the other candidates of the relevant MT can be found. For the avoidance of doubt, this arrangement is not applicable to ReR and IIR. Furthermore, to ensure fair treatment to all candidates concerned, broadcasters should in particular take heed of the observations by the Court in an election petition relating to the 2010 LegCo By-election as set out in **Appendix 10** and, where appropriate, follow the arrangements set out therein when producing election-related multi-episode feature reports.

10.20 When determining whether an election-themed feature report produced by a broadcaster is in breach of the principle of fair and equal treatment, the EAC may take into consideration the overall circumstances of relevant feature reports produced by the broadcaster during the election period.

PART V : FEATURE REPORTS (PRINT MEDIA)

10.21 If the print media conducts interviews to introduce individual candidates during the election period, it should also give the other candidates contesting in the same Rural Area an equal opportunity to be interviewed so as to ensure that the electors can access more relevant information about the election for making informed choices.

10.22 In the interview reports of individual candidates by the print media, mention of other candidates of the same Rural Area should be made. The mention may be made in an appropriate way by the media organisation. It may not necessarily appear within the content of the same report but, in

principle, should enable readers to be informed of the other candidates. For instance, when an interview with a candidate is published on a newspaper, the names of other candidates of the same Rural Area may be listed on the same page of the report or on other pages. Nevertheless, for the KFR election, due to the considerable number of seats and candidates involved, the print media may have practical difficulties in mentioning all the other candidates of the same MT in the same publication. Therefore, the print media may choose to provide readers with the total number of candidates of the same MT in the publication, and mention the platform maintained by the print media (such as the webpage of the organisation/publication) where the names of the other candidates of the relevant MT can be found. For the avoidance of doubt, this arrangement is not applicable to ReR and IIR.

10.23 The EAC appeals to the print media to accord **fair and equal treatment** and equal opportunity as far as practicable to all candidates in respect of reporting on candidates contesting in the same Rural Area and their electioneering activities. How to treat the candidates fairly and equally in practice depends on the actual circumstances. Reference may be made to the elaboration in **Appendix 11**. When determining whether any feature reporting by the print media is in breach of the principle of fair and equal treatment, the EAC may take into consideration the overall reporting by the media organisation during the election period.

10.24 The print media should ensure that, during the election period, their reporting will neither give unfair publicity to a particular candidate, nor lead the public to perceive that such reporting is made for the publicity of that particular candidate. Publications (e.g. newspaper supplements or leaflets) that promote or prejudice the election of a particular candidate or particular candidates, whether for free or otherwise, may be regarded as EAs for the candidate(s) concerned and will be subject to the requirements on election expenses as stipulated in Chapter 15. The publisher may contravene the

relevant legislation if it is not an authorised election expense agent.

PART VI : NON-ELECTION-RELATED PROGRAMMES AND ARTICLES

10.25 During the election period, a candidate may appear as guest in a non-election-related programme on television/radio or an interview by the print media insofar as his/her participation is pertinent to his/her position, i.e. the candidate is invited because his/her professional knowledge or past experience is in close connection with the subject matters of the programme or interview. A documented record should be kept by the broadcaster/print media to provide justification regarding the choice of guests, including there being no better choice of alternative guests, etc. The broadcaster/print media should ensure that no election-related topics (including the machinery of the election of the candidate) will be mentioned in the programme/article and no unfair publicity will be given to the candidate. Otherwise, under the principle of fair and equal treatment, the broadcaster/print media should also give the other candidates contesting in the same Rural Area an equal opportunity of appearing/being interviewed.

10.26 Likewise, during the election period, if a representative of a political party or political organisation with members contesting in the election is invited to appear as a guest in a non-election-related programme/interview, the broadcaster/print media should also ensure that the participation of the representative is pertinent to his/her position, i.e. the representative is invited because his/her professional knowledge or past experience is in close connection with the subject matters of the programme/interview. A documented record should be kept by the broadcaster/print media to provide justification regarding the choice of guests, including there being no better choice of alternative guests, etc. The broadcaster/print media should ensure

that no election-related topics (including machinery of the election) will be mentioned in the programme/article, no election-related materials (including badges and clothing) of the political party or political organisation to which the representative belongs will be displayed in the programme/article, and the programme/article will not cause any unfairness to any candidate. Otherwise, under the principle of fair and equal treatment, the broadcaster/print media should also give all the political parties or political organisations with members contesting in the election (whether or not they are contesting in the same Rural Area) and all independent candidates an equal opportunity of appearing/being interviewed.

PART VII : AVOIDING UNFAIR PUBLICITY

10.27 During the election period, media organisations should ensure that no favourable or unfavourable treatment will be given to any candidate, and **no** such unfair advantage should be obtained by candidates. If a candidate has more opportunities for publicity than other candidates on the basis of his/her background or profession, he/she should also endeavour to avoid obtaining such unfair publicity.

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

10.28 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 election or during the election period if he/she becomes a candidate. This is to avoid unfair 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 III above.

10.29 A person who has been contracted to appear as presenter, regular contributor, actor, musician, singer or any other form of entertainer in any performance scheduled to be shown before he/she has publicly declared his/her intention to stand for 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)-in-charge not to broadcast his/her appearance in any media after he/she publicly declared his/her intention to stand for election or during the election period if he/she 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 giving unfair publicity to the person concerned.

Candidates Appearing in Commercial Advertisements

10.30 A person should not participate in the making of any advertisement in which his/her image, name or voice appears (the relevant advertisement) while knowing that the relevant advertisement will be broadcast on television/radio or in cinema after he/she publicly declared his/her intention to stand for election or during the election period if he/she becomes a candidate.

10.31 In case that, after the relevant advertisement has been made, the person then decides to stand for election while knowing that the relevant advertisement will be broadcast on television/radio or in cinema after he/she publicly declared his/her intention to stand for election or after commencement of the nomination period if he/she becomes a candidate during that period, he/she should make his/her utmost endeavours to request the person(s)-in-charge not to broadcast the relevant advertisement after he/she publicly declared his/her 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 giving unfair publicity to

the person concerned.

Candidates Contributing Regularly to Print Media

10.32 A regular columnist should not contribute articles to the print media after he/she has publicly declared his/her intention to stand for election or during the election period if he/she becomes a candidate. This is to avoid unfair publicity for him/her at the critical time. A person who has been contracted to serve as a regular columnist should make his/her utmost endeavours to request the person(s)-in-charge not to publish his/her commentaries in any media after he/she publicly declared his/her intention to stand for election or during the election period if he/she 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 giving unfair publicity to the person concerned.

PART VIII : PLACING ELECTION ADVERTISEMENTS IN MEDIA

10.33 Television stations licensed under the Broadcasting Ordinance are not allowed to broadcast advertisements of a political nature under the law. Radio stations licensed under the Telecommunications Ordinance are not allowed to broadcast advertisements of a political nature under the Code of Practice issued by the Communications Authority unless prior approval has been given by the Communications Authority.

10.34 A candidate may advertise in the print media to promote his/her candidacy. Where such an EA 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 EA,

the words “**Election Advertisement**” or “**選舉廣告**” must be stated therein to avoid misunderstanding among readers that it is not an EA (see para. 7.66 of Chapter 7). The expenses so incurred must be accounted for in the return and declaration of election expenses and election donations. An EA placed in a registered local newspaper is exempted from the requirement on bearing printing details (see also para. 7.65 of Chapter 7 for details). The EAC appeals to all members of the print media to give all candidates contesting in the same Rural Area **an equal opportunity** for placing EAs in the print media.

PART IX : SANCTION

10.35 Whether the principle of fair and equal treatment is complied with or whether any favourable or unfavourable treatment is given to any candidate by the media should be determined having regard to the overall reporting by the media organisation during the election period.

10.36 Any broadcaster, member of the print media or forum organiser who is found to have treated the candidates in an unfair or unequal manner may be **reprimanded** or **censured** by the EAC in a public statement, in which the names of the candidates receiving favourable or unfavourable treatment as well as the names of the broadcaster, member of the print media or forum organiser concerned will be released. 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 7 and 15) 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 and avoid any conduct which will cause public concern about the fairness of the election.

10.37 Candidates mentioned in paras. 10.28 to 10.32 above should make their best endeavours to avoid unfair publicity according to the guidelines stipulated in the corresponding paragraphs. If the EAC receives any complaint about the unfair publicity of a candidate and subsequently discovers that he/she fails to make such endeavours, it may **reprimand** or **censure** the candidate concerned in a public statement.