# CHAPTER 10

# ELECTION BROADCASTING, MEDIA REPORTING AND ELECTION FORUMS

## PART I : GENERAL

10.1 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 first day of the nomination period to the day on which the polling ends), in handling any 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 **principles of fair and equal treatment**. Their comments and reports must be impartial to ensure that no favourable or unfavourable treatment will be given to any candidate, and electors should be able to obtain sufficient election information through media reporting so as to make informed choices.

10.2 This chapter is not intended to regulate the contents of media reporting. If the media has covered all the candidates fairly and equally, he can express opinions provided that the comments are based on facts.

10.3 **Most importantly, media must 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 s 23(1) of the ECICO because of incurring election expenses by the publishers who are not candidates or their authorised election expense agents.**

**NOTE:**

As there are various means and platforms for different persons to publicly declare their intention to stand for election, the media may have practical difficulties to fully grasp the information of all persons who have publicly declared 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 RO[52]. **The above definition of "candidate" applies only to this chapter and it is not a definition under any legislation, including s 2 of the ECICO** in which "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 provision is applicable to the requirements on candidates' EAs and election expenses or other requirements under the ECICO. See Chapters 7 and 15.

10.4 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 related polls or making specific comments or projections on the performance of individual candidates before the close of poll, so as to prevent electors' voting behaviour from being unduly affected. See Part II of Chapter 14.

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[52] Upon receiving a nomination form, the RO must, as soon as practicable, determine the validity of nomination. Meanwhile, the information of the person concerned will be, as soon as practicable when the RO receives the nomination form, uploaded to the relevant election website for public information.

## PART II : NEWS REPORTS

10.5 For news reports related to the election, in ReR and IIR elections, they could be reported independently even if they only cover an individual candidate. However, the media should clearly provide the total number of candidates and names of all candidates of the Rural Areas concerned. Due to the considerable number of seats and candidates in the KFR election, the media may have practical difficulties in mentioning all candidates of an MT in the same programme or publication. Therefore, the media may provide in the programme or publication:

(a) the total number of candidates in the MT; and

(b) the platform(s) maintained by the media (e.g. the webpage of the media organisation/programme/publication) on which the names of all candidates of the MT are set out.

10.6 News reports unrelated to the election could be reported according to the facts, even if they involve an individual candidate but his candidature is not mentioned. There is no need to mention other candidates of the same Rural Area.

## PART III : ELECTION FORUMS

10.7 Broadcasters should invite all candidates of the same Rural Area to participate in election forums. If an individual candidate chooses not to attend the forum, the broadcaster may continue to organise the forum concerned and this does not contravene the principles of fair and equal treatment. However, the broadcaster must keep a record of the date, time and contents of the invitation and notice, and such record should be kept until three months after the election.

10.8 The principles of fair and equal treatment do not require the time of expression for each participating candidate in the entire election forum to be the same, but requires broadcasters to give each candidate "equivalent time" in the session of presenting his election platform. For the sessions other than presenting election platforms, such as the debate session, each candidate may freely express his views according to specific issues. It is crucial that the host should, at any time throughout the programme, make his best effort to ensure that each candidate has the opportunity to express his views/make responses.

10.9 Other organisations or groups, such as professional bodies or chambers of commerce, academic institutions or schools, should also act and keep relevant records in accordance with the principles in paras. 10.7 and 10.8 of this chapter when organising election forums.

10.10 Election forum organisers should take measures to ensure the forum is held in a safe and orderly manner. If an election forum is to be held at private premises, the election forum organiser should in advance arrange for appropriate security measures with the owners, occupiers, owners' corporations, building management offices concerned, etc., which include consideration of hiring security guards to help maintain order at the venue.

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

## PART IV : FEATURE REPORTS

10.12 When producing special programmes or interviews to introduce individual candidate, the media should clearly provide, within the same feature report, the total number of candidates and the names of all candidates of the Rural Area. For guidelines on feature reports on candidates of MTs, see para. 10.5 of this chapter.

10.13 When inviting a candidate for an interview, broadcasters must invite all candidates contesting in the same Rural Area 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 still proceed with the production of the programme. However, all records must be kept for three months after the election. Broadcasters, regardless of their airtime, should provide equal opportunity and comparable time to each candidate in the same Rural Area.

10.14 Furthermore, to treat all candidates concerned fairly, broadcasters should in particular take heed of the opinions by the Court in an election petition relating to the 2010 LegCo By-election as set out in **Appendix 8**, and where appropriate, follow the arrangements set out in **Appendix 8** when producing an election-related feature report with more than one episode.

10.15 The print media should give all candidates contesting in the same Rural Area an equal opportunity to be interviewed, or mention other candidates of the same Rural Area in an appropriate way. The way of mentioning is not necessarily in the same article, but in principle should facilitate readers to know about other candidates. For instance, when an interview with a candidate is published in 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. The print media may also refer to the interpretation in **Appendix 9,** making his best effort to accord equal opportunity to all candidates, in order to ensure that the reporting will not cause unfairness to a particular candidate, or lead members of the public to perceive that such reporting is promoting a particular candidate.

## PART V : NON-ELECTION-RELATED PROGRAMMES AND ARTICLES

10.16 During the election period, candidates or representatives of their affiliated political parties or political organisations may, in a non-candidate capacity, participate in a broadcaster's/the print media's interviews or programmes which are unrelated to the election. However, they must be invited by the broadcaster/print media to the programmes or interviews due to the close relationship of the invitees' professional knowledge or past experience and the topic of the programmes or interviews. 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 choices, etc. The broadcaster/print media must ensure that no election-related topics (including the election campaigns of candidates) would be mentioned in the programmes or articles and no election-related materials (including badges and clothing) of the political parties or political organisations to which the representatives belong, nor any materials making direct reference to a body any member of which is standing as a candidate at the election concerned or any political body would be displayed in order to avoid causing an unfair situation.

## PART VI : AVOIDING UNFAIR PUBLICITY

10.17 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 his best effort to refrain from participating in related publicity in order to avoid unfair publicity.

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

10.18 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 the programme becoming unfair publicity at the critical time. However, the person concerned may participate as a candidate in election forums as described in Part III of this chapter.

10.19 A person who, in order to fulfil a contract, appears as presenter, regular contributor, actor, musician, singer or any other forms of performer in a performance scheduled before he has publicly declared his 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 he has publicly declared his 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 the performance concerned becoming unfair publicity.

**Candidates Appearing in Commercial Advertisements**

10.20 If a person is involved in the production of an advertisement in which his image, name or voice appears, and he also knows that such 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 such advertisement.

10.21 If a candidate decides to stand for election after the advertisement in which his image, name or voice appears has been made, and he also knows that

such 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 make his utmost endeavours to request the person(s)-in-charge not to broadcast such advertisement after he has publicly declared his 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 the advertisement concerned from becoming unfair publicity.

**Candidates Contributing Regularly to Print Media**

10.22 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 in order to fulfil a contract should make his utmost endeavours to request the person(s)-in-charge not to publish his articles in any media after he has publicly declared his 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 the article concerned becoming unfair publicity.

## PART VII : PUBLISHING ELECTION ADVERTISEMENTS THROUGH MEDIA

10.23 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 with a political slant unless prior approval is obtained.

10.24 If a candidate publishes EAs through the print media, he must also comply with the requirements set out in Part VIII of Chapter 7. If the EA is published 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 election return. The EAC appeals to all print media to give all candidates contesting in the same Rural Area **equal opportunity** for publishing EAs in the print media.

## PART VIII : SANCTION

10.25 The EAC, when assessing whether a news report or feature report by the media (including broadcasters and the print media) violates the principles of fair and equal treatment, will take into account the overall reporting by that organisation during the election period.

10.26 If the EAC finds that any broadcaster, print media or election forum organiser has treated the candidates in an unfair or unequal manner, the EAC may issue a **reprimand** or **censure** in a public statement against the person concerned, and publish the names of the candidates who have received favourable or unfavourable treatment as well as the names of the broadcasters, the print media or election forum organisers concerned. The EAC may also refer the case to the relevant authorities for appropriate action to be taken. Moreover, the programmes, news reports or articles 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 EAs for the candidate(s) concerned. As such, it may contravene the statutory requirements on EAs and election expenses (see Chapters 7 and 15). Both the media and candidate(s) may be subject to criminal liability. The EAC will refer cases of possible breaches to the law enforcement agencies for follow-up. In view of the above,

the EAC appeals to all broadcasters, print media, election forum organisers and candidates to strictly comply with the guidelines set out in this chapter to avoid any conduct which will cause concern from members of the public about the impartiality of the election.