

# Frequently Asked Questions - Election Advertisements

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## A. Definition of Election Advertisements

### Q1. What is an election advertisement?

A1. An election advertisement means:

- (a) a publicly exhibited notice, leaflet, circular, bill, booklet, placard or poster; or
  - (b) a notice, leaflet, circular, bill, booklet, placard or poster delivered by hand or electronic transmission; or
  - (c) a public announcement made by radio or television or by video or cinematographic film; or
  - (d) any other form of publication,
- published for the purpose of promoting or prejudicing the election of a candidate or candidates at the election.

“Publish” means print, display, exhibit, distribute, post up, publicly announce or make publicly known by any other means, and includes continue to publish.

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### Q2. Will the work reports published by candidates who are serving council members (e.g. Legislative Council member, District Council member, etc.) be regarded as election advertisements?

A2. Under section 104(4) of the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap. 541D), a document published by a candidate during an election period that gives details of the work done by the candidate in the capacity of the Chief Executive, a member of the Legislative Council, a member of a District Council, a member of the Heung Yee Kuk, a Rural Representative, etc. is also regarded as an election advertisement.

If a person publishes a document **before** he/she submits his/her nomination form or publicly declares his/her intention to stand as a candidate that gives details of his/her work done by him/her in such capacities without promoting or prejudicing the election of a candidate or candidates at the election, the document will not be regarded as an election advertisement. On such basis, the expenditure incurred in the publication of such a document would not be counted as election expenses.

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### Q3. A chairperson of an owner's corporation is a candidate. If the owner's corporation publishes notices containing the chairperson's name (e.g. ordinary notice or debit note) during the election period, will these notices be regarded as election advertisements?

A3. An election advertisement means any publication published for the purpose of promoting or prejudicing the election of a candidate or candidates at the election. Any thing or material published by any organisation, including political organisation, professional or trade organisation, owners' corporation, mutual aid committee, tenants' association, owners' committee, etc. which advertises its political platform or services **with reference to candidate** (irrespective of whether or not the candidate concerned is its office-bearer or member) during or even before the election period by name or photograph or other

information may be regarded as election advertisement put up by, or on behalf of, or on account of, the candidate. The expenses of advertisement may be regarded as election expenses incurred by or on behalf of the candidate. It is therefore a prudent step for the relevant organisations to suspend such advertising activities. However, if the material published by the organisation concerned (as opposed to by the candidate himself/herself) advertises only a particular activity, which:

- (a) is organised from time to time either as part of the organisation's normal functions, and/or according to the local tradition;
- (b) is not related to the election; and
- (c) does not explicitly or implicitly promote or prejudice the election of a candidate in the election,

then the appearance in the published material of the name and/or photograph of a candidate who is involved in organising the activity will not be regarded as an election advertisement.

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**Q4. Is it appropriate for a candidate to criticise another candidate or other candidates in his/her own election advertisement?**

A4. An election advertisement means any publication published for the purpose of promoting or prejudicing the election of a candidate or candidates at the election. There are occasions that a candidate may publish election advertisement for the purpose of prejudicing the election of another candidate or other candidates in the election advertisement with a view to prejudicing another candidate's or other candidates' candidature at the election. On such occasions, the candidate publishing the election advertisement must include the expenditure incurred in his/her election expenses. A candidate must also beware not to publish any materially false or misleading statement of fact about himself/herself or another candidate or other candidates under the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) for the purpose of promoting the election of himself/herself or prejudicing the election of another candidate or other candidates. Any such publication will amount to an illegal conduct.

Anyone can report to the law enforcement agencies (e.g. Independent Commission Against Corruption or Hong Kong Police Force) if he/she thinks any contents of an election advertisement involve false statement.

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**Q5. Is the election campaign published by a candidate through internet platforms such as websites, social media, communication networks, etc. regarded as election advertisement? What should the candidate be aware of if web surfers share or forward different candidates' election campaign?**

A5. In accordance with section 2 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), election advertisement means publication published for the purpose of promoting or prejudicing the election of a candidate or candidates at the election. On such basis, any election campaigns published through internet platforms such as websites,

social media, communication networks, etc. by a candidate will be regarded as election advertisement.

If web surfers merely share or forward different candidates' election campaigns through internet platforms for expression of views and do not intend to promote or prejudice the elections of any candidates, such sharing or forwarding will not normally be construed as publishing election advertisement. However, if the web surfers are instructed by the candidate/list of candidates or his/her/their election helpers to share or forward the election campaigns through internet platforms with the intention to promote or prejudice the election of a candidate or candidates at the election, such act will be regarded as publication of the candidate's election advertisement and any costs incurred will have to be included in the election expenses of the candidate/list of candidates.

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Q6. If a candidate publishes an election advertisement without candidate number but subsequently affixes a candidate number sticker on it, will the candidate number sticker itself be regarded as an election advertisement?

A6. Sticker containing only the candidate number is not an election advertisement in itself. However, if the candidate adds the candidate number sticker on the election advertisement which has already been published, the candidate should submit the "[Notification of Corrected Information in relation to Election Advertisements](#)" together with copies of the election advertisement with the number sticker on it. It should be noted that if other amendment is made to the content of the election advertisement, it will be regarded as publication of a new election advertisement. Candidates must comply with the requirements to submit copies of the election advertisement and required information/documents within one working day after publication (i.e. after the amendment).

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Q7. The candidate produced a banner with only his/her name and image on it, and left an area blank for sticking different slogans. Will the banner be regarded as a new election advertisement each time a new slogan is stuck on it?

A7. As the contents on the banner are different, the banner should be regarded as a new election advertisement each time a new slogan is stuck on it. Candidate must submit copies of the election advertisement and required information/documents in accordance with the regulations on the publication of election advertisement.

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Q8. For election advertisement that can be used repeatedly (e.g. a sash or roll up banner printed with candidate's information), will it be regarded as a new published election advertisement every time it is used?

A8. "Publish" means print, display, exhibit, distribute, post up, publicly announce or make publicly known by any other means, and includes continue to publish. For election advertisement that can be used repeatedly (e.g. a sash or roll up banner printed with candidate's information), when a candidate uses it for electioneering activities at an

election for the first time, the candidate will be regarded as publishing the election advertisement and must submit copies of the election advertisement and required information/documents in accordance with the regulations. Using the same election advertisement afterwards will be regarded as continuing to publish, and there is no need to submit copies of the election advertisement and required information/documents again.

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## **B. Requirements related to Publication of Election Advertisement**

**Q9. What are the requirements relating to publication of election advertisement?**

**A9.** A candidate who wishes to display his/her election advertisement on government or private land/property must obtain **prior written permission or authorisation** as required. Furthermore, the candidate must make available a copy of each of his/her election advertisements and the relevant information/documents in relation to the election advertisement including publication information, permission\* or consent of support for public inspection within one working day after publication of the election advertisement by the following means (for details please refer to [Part VI of Chapter 8 of the Guidelines on Election-related Activities in respect of the Legislative Council Election](#)) -

- (a) posting an electronic copy each of all his/her election advertisements and the relevant information/documents onto an open platform maintained by the Chief Electoral Officer (“CEO”) or a person authorised by the CEO (“Central Platform”);
- (b) posting an electronic copy each of all his/her election advertisements and the relevant information/documents onto an open platform maintained by the candidate or a person authorised by the candidate (“Candidate’s Platform”) and provide the electronic address of the platform to the CEO at least three working days before publication of the first election advertisement;
- (c) if it is technically impracticable to comply with (a) or (b) above for election advertisement published through an open platform on the internet (such as when messages are sent through social networking or communication websites on the Internet like Twitter, Facebook, blogs, etc. and the exchanges are of an interactive and spontaneous nature), posting a hyperlink of such open platform and the information/documents relevant to the election advertisement onto the Candidate’s Platform or the Central Platform;
- (d) providing two hard copies each of the election advertisement (or two identical full colour photographs/printouts/photocopies of each election advertisement which cannot be practically or conveniently produced in specie) and one hardcopy each of the relevant information/documents to the Returning Officer (“RO”); or
- (e) providing two identical copies of a CD-ROM or DVD-ROM each containing the election advertisement and one hardcopy each of the relevant information/documents to the RO.

\* As to the meaning of “permission”, see [Q16](#).

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Q10. What kind of specified information should be included in an election advertisement?

A10. Election advertisement displayed at the designated spots allocated by the Returning Officer must state clearly the name of the constituency for which the candidate concerned is standing. In addition, all printed election advertisements, with the exception of those printed in registered local newspaper, should contain the printing details, i.e. the Chinese or English name and address of the printer, the date of printing and the number of copies printed. Where an election 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 word “**Election Advertisement**” or “選舉廣告” must be stated in the advertisement, to avoid misunderstanding by the readers that it is not an election advertisement.

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Q11. How to make available copies of election advertisement and relevant information/documents for public inspection if a candidate uses the internet platform (such as website or social media platform) to produce an election website or blog for election campaign?

A11. If a candidate uses the internet platform (such as website or social media platform) to produce an election website or blog for election campaign, each message published for the purpose of promoting the candidate’s election or prejudicing another candidate’s or other candidates’ election (including text, photographs and video, etc.) will be regarded as publishing a new election advertisement, and the candidate must comply with the requirements for publication of election advertisement. The candidate can upload the hyperlink to the specific election advertisement published (but not the hyperlink to the entire election website or blog), and the information/documents relevant to the election advertisement, onto the Candidate’s Platform or Central Platform within one working day after publication of the election advertisement. The purpose of uploading the hyperlink to the specific election advertisement is to facilitate public inspection and checking by the Registration and Electoral Office and the Returning Officer. If it is technically impracticable to do so, candidate can upload the hyperlink of the election website or blog. Candidates should check the uploaded hyperlinks regularly to ensure the election advertisements published via the election website or blog can be accessed by the public during the public inspection period.

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Q12. If some pamphlets contain the same content but are printed on papers in different colours, should they be regarded as two different election advertisements or one election advertisement?

A12. Section 105 of the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap. 541D) sets out the related regulation on the publication of election advertisement. According to the regulation, candidates must make available a copy of each of his/her election advertisement, and the relevant information/documents in



relation to the election advertisement for public inspection within one working day after publication of the election advertisement. For the sake of clarity, candidates should provide copies of each election advertisement in different colours/format for public inspection.

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Q13. Should the clothes and balloons with electioneering message bear printing details?

A13. All **printed election advertisement**, with the exception of those printed in registered local newspaper, should bear printing details, i.e. the Chinese or English name and address of the printer, the date of printing and the number of copies printed. The requirement applies to all printing materials produced or reproduced by any method (e.g. printing machines, duplicators or photocopiers), such as poster, pamphlet, handbill, banner, pennant, placard etc. The requirement is not applicable to other election advertisements which are not printed materials (e.g. clothes or balloons with electioneering message). Candidates only need to provide copies of election advertisement and publication information/documents in accordance with requirements relating to publication of election advertisement.

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Q14. If a candidate self-prints the election advertisement at home, and does not wish to print his/her residential address on the election advertisement, can he/she only print part of the address, for example the names of estate and road, and publish these as the printing details in relation to the election advertisement?

A14. All **printed election advertisements**, with the exception of those printed in registered local newspaper, should contain the printing details, i.e. the Chinese or English name and address of the printer, the date of printing and the number of copies printed. It applies to all printing goods produced or reproduced by any method (e.g. printing machine, duplicator or photocopier). Candidates cannot only print part of the address.

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Q15. If a candidate discovers an error in the printing details printed on the election advertisement (e.g. printing quantity), but the quantities set out in the submitted “Information Sheet in relation to Election Advertisements” and related receipt are correct, what should the candidate do?

A15. The candidate must immediately stop publishing the election advertisement containing the incorrect information, and withdraw any election advertisement concerned which has been published, such as the publicity posters posted at the designated spots or private land/property. The candidate must also explain in details the incorrect information in the election advertisement concerned and the follow-up action in writing, and deposit such written explanation with the relevant Returning Officer for record and for public inspection.

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Q16. What does “Permission” refer to?

A16. “Permission” means the written permission of the owner or the occupier of any private land or the authority of any government land given pursuant to section 104A(1) of the



Public Health and Municipal Services Ordinance (Cap. 132) for a candidate to display or affix a bill or poster on such land. A candidate must make available a copy of each of his/her election advertisements, and the relevant information/documents for public inspection within one working day after publication of the election advertisement according to the means specified by the Electoral Affairs Commission. For display of election advertisement at the designated spots allocated by the Returning Officer to the candidate, once the candidate has obtained the written permission provided by the Returning Officer, he/she does not need to provide a copy of that written permission again for public inspection.

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Q17. Should the distribution locations be stated clearly under the manner of publication? Should all the distribution locations be listed?

A17. There is no need to list all the distribution locations under the manner of publication.

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Q18. If the candidate discovers an error in the particulars (e.g. quantity of advertisement, size, etc.) stated in the “Information Sheet in relation to Election Advertisements” deposited with the Returning Officer, can he/she submit the “Notification of Corrected Information in relation to Election Advertisements”?

A18. According to the Guidelines on Election-related Activities in respect of the Legislative Council Election, all corrective information must be deposited with the relevant Returning Officer in a specified form “[Notification of Corrected Information in relation to Election Advertisements](#)” within two working days after the polling day, the latest.

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Q19. How should a candidate make rectification if he/she has inadvertently omitted the printing details?

A19. A candidate who has inadvertently omitted the printing details from his/her printed election advertisement(s) can make a statutory declaration giving the omitted details, and deposit such declaration with the relevant Returning Officer not later than seven days after the publication of the election advertisement(s) concerned.

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### **C. Consent of Support**

Q20. What are the existing arrangements for obtaining written consent of support on the internet?

A20. In accordance with section 27 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), if a candidate includes the name, logo or pictorial representation of a person or an organisation into his/her election advertisement, and the publication is in such a way as to imply or to be likely to cause electors to believe that the candidate has the support of the person or organisation concerned, the candidate should obtain the prior written consent. If the prior written consent has not been obtained, it is still an offence even if the candidate’s election advertisement contains a statement to the effect that it does not imply support from the person or organisation concerned. But if the candidate has neither

requested or directed nor authorised any person to request or direct the inclusion of the aforesaid name, logo or pictorial representation in his/her election advertisement, then no prior written consent will be required.

On social media and communication websites on the internet, it is not uncommon that people indicate support for a candidate in relation to his/her policies or activities by inserting a "Like" sign or posting supportive comments on the candidate's webpage. If web surfers show support for the candidate out of their own volition by giving responses or indicating "Like" to the election advertisement published by the candidate through the said platform, the candidate is not required to seek the supporters' prior written consent. However, the candidate must not modify the name, logo or pictorial representation of, or any content given by the above web surfers, unless prior written consent on the modification has been obtained from them. Otherwise, the candidate will contravene the law.

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Q21. Is it appropriate for a candidate to use another candidate's/person's image/name etc. in his/her promotional materials to promote his/her election or prejudice the election of another candidate or other candidates?

A21. According to the law, candidates must obtain **prior written consent** from a person or an organisation **before** using the name or logo of that person or organisation, or a pictorial representation of that person in any of his/her election advertisement **as an indication of having the support from that person or organisation**.

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Q22. A serving Legislative Council (LegCo) or District Council (DC) member supports a candidate in his/her capacity of "LegCo/DC member". Is the candidate required to obtain written consent of support from the LegCo/DC? Is the serving LegCo/DC member required to obtain approval from the LegCo/DC?

A22. Whether the mention of office title and the name of organisation concerned of an individual supporter in the election advertisement will be considered as an indication that the candidate has the support of the organisation concerned will depend on the circumstances of each case. The question to be considered is whether any reasonable person who has seen the election advertisement (including reading the context as a whole) would have the perception that the organisation concerned supports the candidate. In any case, candidate should be careful not to give the impression that he/she has gained the support of the whole organisation. In addition, in accordance with the Guidelines on Election-related Activities in respect of the Legislative Council Election issued by the Electoral Affairs Commission, candidates should ensure that the supporter has obtained the prior written approval of the organisation, in accordance with the organisation's internal rules and procedures or any established convention (e.g. approved by the governing body of the organisation or by a resolution of that organisation passed at a general meeting), for using the name of the organisation together with his/her office title(s) by the candidate. If in doubt, the supporter of the candidate should consult the organisation which he/she

belongs to on the internal rules and regulations on the use of his/her office title and the name of the organisation.

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Q23. Is it necessary for a candidate to obtain prior written consent if he/she uses an old photograph of him/her attending an event with other persons, such as pictures taken together with government officials?

A23. The question to be considered is whether any reasonable person who has seen the election advertisement (including reading the context as a whole) would have the perception that the person concerned supports the candidate. To avoid misunderstanding, for instance, if an election advertisement carries a photograph of the candidate attending an activity with other attendees, a caption specifying the particular nature of the event could be added underneath the photograph in such a way that will not imply, or likely to cause electors to believe, that the candidate has the support of those persons appearing in the photograph. If in the circumstances the photograph is likely to cause electors to believe that the candidate has the support of those persons appearing in the photograph, prior written consent of support should be obtained by the candidate.

On the other hand, regardless of whether the candidate must obtain the consent of support from the person in the photo in accordance with section 27 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), candidates must be aware of whether the publication of election advertisement containing the photograph has complied with the requirements of the Personal Data (Privacy) Ordinance. As advised by the Office of the Privacy Commissioner for Personal Data, an image of an identified person will constitute his/her personal data and its use for a purpose other than the original purpose of collection or a directly related purpose, without the consent of the person concerned, will be an infringement of his/her personal data. Therefore, candidates when using the aforesaid image should also observe the relevant data protection principles. For details, please refer to [Appendix I to the Guidelines on Election-related Activities in respect of the Legislative Council Election](#).

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#### **D. Others**

Q24. When will the Returning Officer allocate the designated spots to the candidates?

A24. After the end of the nomination period and when the numbers of validly nominated candidates/lists of candidates is known, the Returning Officer for each constituency will allocate the designated spots to the validly nominated candidates contesting in the constituency either by the mutual consent of the candidates or by the drawing of lots on the date when the Candidates' Briefing is held.

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Q25. Can the election advertisement be displayed on public transport?

A25. For the display of election advertisement on public light buses and taxis, their owners/operators shall obtain prior written approval from the Transport Department ("TD")

and ensure that the display of election advertisement is in compliance with the conditions as stipulated by the TD in an approval letter, in particular the following conditions:

- (a) (i) for taxi, no election advertisement may be displayed on all windows;
- (ii) for public light bus, no election advertisement may be displayed:
  - (1) on all windows except on the interior surface of:
    - the window on the left of the first row of single-seat; and
    - the window on the right of the second row of double-seat.Election advertisement to be displayed in each of the abovesaid windows shall not exceed a total size measuring 210 mm by 297 mm (equivalent to A4 size);
  - (2) at areas between the windows and the exterior roof panel; and
  - (3) on the exterior roof panel (except sticker-type election advertisement);
- (b) no luminous or reflecting material may be used for election advertisement; and
- (c) no election advertisement may obstruct any statutory lighting/label/markings required to be shown on the vehicle body as specified by the Commissioner for Transport or stipulated in the Road Traffic Ordinance (Cap. 374) and its subsidiary legislation.

According to the TD's performance pledge which is applicable to only public light buses and taxis, it normally takes no more than seven working days to process an application for the display of an election advertisement on a public light bus or taxi.

The TD has issued general approval to all franchised bus companies for advertising on the body and window of buses subject to conditions imposed by the TD. The bus companies should comply with the conditions set out in the TD approval letters when they handle all kinds of advertisement. In this connection, there are no special guidelines on the display of election advertisement on buses. For the other modes of public transport, the operators concerned have their internal rules to govern the display of advertisement. In this regard, candidates should check with the operators for the relevant procedures and comply with the conditions imposed.

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