



SHRINKING MARGINS

Freedom of expression in Hong Kong since 1997

2007 ANNUAL REPORT

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Introduction and recommendations

July 1st 2007 marked the tenth anniversary of Hong Kong's handover to the People's Republic of China. As such it is not only a time to look back at the past year—the usual role of the annual report published by the Hong Kong Journalists Association (HKJA). It also provides an opportunity to consider developments in the past 10 years.

On the surface, there is a flourishing media in Hong Kong. There are—according to the Hong Kong government in its annual handbook—almost 50 daily newspapers catering to different tastes and political viewpoints. But deep down, there have been some disturbing trends, which lead the HKJA to conclude that the room for dissenting voices is narrowing.

This is borne out by the findings of a survey conducted by the HKJA in January 2007. It reported that 58 percent of journalist respondents believed that press freedom had deteriorated since the handover. This was attributed to self-censorship and tighter government control on the flow of information.

This was also borne out by the media watchdog, Reporters Without Borders, which placed Hong Kong 58th out of 168 jurisdictions in its press freedom ranking for 2006. That compares with 18th in 2002. Reporters Without Borders notes: "Hong Kong continues to enjoy real press freedom but political and financial pressures from Beijing are constantly increasing."

Another organisation, Freedom House, placed Hong Kong at number 66 in its press freedom list, alongside the likes of Chile, Namibia, Benin and South Korea—and just one notch higher than partly free countries.

Concerns about Hong Kong's freedoms are not helped when Chinese leaders speak out about controversial issues, as the chairman of the National People's Congress, Wu Bangguo, did in Beijing in June 2007. He made it clear that there were limits to Hong Kong's autonomy, and that the Special Administrative Region enjoyed only the powers granted to it by Beijing, nothing more.

Several problems have developed in the ten years since the 1997 handover. As mentioned above, self-censorship has become a significant problem. According to the January 2007 HKJA survey, fully 30 percent of respondents said they had exercised self-censorship in the past year, and 40 percent said they knew a colleague who had done this. We examine this problem in chapter 3.

Second, the government under the chief executive, Donald Tsang, has been far more effective in marshalling the Hong Kong media than his predecessor Tung Chee-hwa. He and senior government officials have rewarded newspapers and broadcasters with exclusive stories—in return for favourable coverage about government activities. This issue is examined in chapter 4.

Third, many media owners are or have become friends of Beijing—sometimes for business reasons. They wish to expand their business links on the mainland—which requires them to ensure that their publications do not stray into criticism of China and its leadership. The owner of *Apple Daily*, Jimmy Lai, found out the cost of being overly critical of China in 1994, after he insulted the then Chinese premier, Li Peng. The ownership issue is discussed in chapter 5.

As expected, Mr Tsang was elected to a full five-year term as chief executive in March 2007. The chief executive now faces a number of challenges on the press freedom front. He will oversee a public consultation exercise on the future of public service broadcasting—and in particular of the government-owned broadcaster, Radio Television Hong Kong (RTHK). The broadcaster has faced considerable pressure from pro-Beijing politicians, who feel it should become a propaganda arm of the government. RTHK itself affirms that it should be hived

off from the government, so it can operate as an independent public service broadcaster.

Another challenge facing Mr Tsang is the enactment of national security legislation, which could have a devastating effect on media freedoms. An attempt was made to enact such legislation in 2003, but the bill was shelved later that year after half a million people took to the streets to express their fears about its impact on civil liberties. Mr Tsang has played down the importance of this issue, but analysts expect him to take action closer to the 2012 end of his five-year term.

There are other issues at stake, such as threats to enact potentially damaging privacy legislation in the wake of controversy over the taking of photographs of a singer without her knowledge or consent. Mr Tsang said the government would consider a raft of proposals put forward by the Law Reform Commission. They include a recommendation to set up a statutory press council and to enact new civil torts.

The government's attitude towards jailed Hong Kong reporter Ching Cheong is another cause for concern. Mr Ching is serving a five-year jail term in mainland China for espionage. Media groups have called for his early release, but Mr Ching remains in prison—despite health problems.

Recommendations

Given these concerns, the HKJA believes it is time for the Hong Kong government to become more robust in protecting media freedoms. In particular, the HKJA calls on the government to adopt the following action programme:

- 1) Take concrete steps to hive off RTHK from the government in its entirety so that the broadcaster can become a strong independent public broadcaster free from government or political influence. RTHK should be re-constituted by legislation which guarantees the broadcaster's independence in clear and unambiguous terms. The law should also set out sustainable funding methods and a democratic method for selecting the board of governors.
- 2) Give serious consideration to the creation of a platform for public access television and radio services, to ensure a greater diversity of programming.
- 3) Seek the immediate release of jailed Hong Kong journalist Ching Cheong, who is serving a five-year prison term in Guangdong province.
- 4) Urge the Beijing authorities to ensure that Hong Kong and overseas journalists are able to carry out legitimate journalistic work in mainland China without having to face intimidation or threats. The mainland authorities should drop all administrative barriers to reporting in China, in particular by scrapping the regulation that requires journalists to seek prior approval for any reporting work.
- 5) Ensure that any new privacy legislation gives adequate protection to media freedoms, including the right of journalists to carry out investigative reporting. In particular, the government should reject Law Reform Commission calls for a statutory press council and new civil torts that would severely limit the ability of journalists to carry out their work.
- 6) Review the role and composition of the Broadcasting Authority and the Obscene Articles Tribunal in the light of several controversial decisions, to ensure that they better reflect current community views on broadcasting and indecency standards.
- 7) Review the Interception of Communications and Surveillance Ordinance, which was passed into law in August 2006, to ensure that its provisions do not threaten media freedoms in any way. In particular, the government should ensure that the law contains provisions that minimise the possibility that journalists could be forced to reveal sources of confidential information.

SECTION 1

New chief executive targets RTHK

On March 25th 2007, the incumbent chief executive, Donald Tsang, was elected to a second term as Hong Kong's leader. He won convincingly, beating his pro-democracy Civic Party rival by 649 votes to 123. He will serve until the end of June 2012.

Mr Tsang was first elected chief executive in March 2005, following the abrupt resignation of Tung Chee-hwa. Mr Tung had fallen victim to widespread discontent with his attempt to enact national security legislation, which would ban treason, sedition, secession, subversion and the theft of state secrets—issues which would have a major impact on freedom of expression in Hong Kong. The draft law was shelved in September 2003—two months after half a million people took to the streets to denounce the bill.

In his election manifesto, Mr Tsang did not mention whether he would make a second attempt to enact such legislation—despite calls by some mainland academics to do so. Indeed, in December 2006, mainland Basic Law drafter Xu Chongde said it would be regrettable if the legislation was not enacted during Mr Tsang's second term. Another Basic Law expert from the mainland, Wang Zhenmin, said both Hong Kong and Macau should pass national security legislation as soon as possible. But at the same time, he hinted that Macau might be the first to do this.

Mr Tsang was asked about the issue during an election forum with his rival, Alan Leong. Mr Tsang said national security legislation would not be a priority during his second term. A few days later, during an interview with the government-owned public broadcaster, Radio Television Hong Kong (RTHK), he said he would not shirk his constitutional duty to enact such legislation if a good opportunity arose. But at the same time, he said the issue was not an immediate priority. Analysts have taken this to mean that there will be no action until after Legislative Council elections in 2008.

However, on another front which could have a far-reaching effect on freedom of expression, Mr Tsang has promised action. He presided over an initiative that critics say could lead to the death or emasculation of Hong Kong's only public service broadcaster, RTHK, which has in the past been accused by pro-Beijing critics of being too critical of the government. Mr Tsang said in his interview with RTHK that he had an open mind on the issue. What happens next remains to be seen.

REVIEW PANEL DENIES RTHK A PSB ROLE

In March 2007, a committee set up by the government to review public service broadcasting released a report recommending that an independent statutory public broadcaster be set up in Hong Kong—to be called the Hong Kong Public Broadcasting Corporation (HKPBC). But in a surprise and highly controversial twist, it stated that RTHK was not fit to take on this role.

The committee was set up in January 2006 to examine the role of and justifications for public service broadcasting (PSB) in the development of Hong Kong's broadcasting market. It had been scheduled to report nine months after its formation. But delays set in—and it finally released its 71-page report just days after the chief executive election on March 25th.

The committee flagged its direction in an interim report released in September 2006—which followed two months of focus group discussions on the issue. The panel called on the government to create an independent public broadcaster through legislation. It would be governed by a 15-member board and the bulk

of funding would come from the administration. There was ambiguity in the report, however, on whether RTHK would be transformed into the new public broadcaster.

That ambiguity was swept aside in the final report, which states clearly: “In short, a sea change in RTHK’s status is bound to be fraught with practical and insurmountable problems, and not conducive to the start-up of a new public broadcaster. Therefore, the Committee does not favour the transformation of RTHK into a public broadcaster. Instead, it proposes the establishment of a new public broadcaster with a fresh start.”

The committee also makes it clear that following the establishment of a new public broadcaster, RTHK would have a diminished role to play in Hong Kong’s media sector. It states: “(S)ubsequent to the proposed transfer of RTHK’s existing PSB functions to the PBC (Public Broadcasting Corporation), the reduced role of RTHK could hardly justify the allocation of seven radio channels and TV airtime on the domestic free TV channels.”

The committee put forward a vision for an independent public broadcaster that would—on paper—be guaranteed editorial independence. However, even here, critics point to ambiguities. The panel recommends—in its foreword—that the PSB board, management and rank-and-file “shall exercise freedom of speech and of the press responsibly”. The word “responsibly”—curiously—is put in italics. Critics point to the concept of “responsible journalism”, which they interpret as a means to present issues in a pro-government light.

The PSB would also be tasked with such missions as sustaining citizenship and civil society, fostering social harmony and promoting pluralism. While the latter is laudable, the former could be propagandistic in nature, depending on how they are implemented. Harmony is the buzzword used in mainland China to justify social control; the government in Hong Kong has now adopted the terminology.

Critics also argue that the chief executive will have a major say in the composition of the PSB’s board of governors. Hong Kong’s leader will appoint a provisional board from names put forward by a nominating committee—which itself will be chosen by the chief executive. The provisional board will be responsible for paving the way for the appointment of a proper board, which shall consist of no more than 15 members. Each board member will serve for a maximum of two three-year terms.

The nominating committee will have a crucial role to play in forming a new board. It will consist largely of members of the previous board—including the chairman and outgoing members. They will advertise for potential board members, and will then put forward at least two names for each of nine different sectors, including the media and journalism. The chief executive will take the final decision about who to appoint to the board. However, the names of candidates will be kept secret—“so as to protect their privacy”.

The PSB’s chief executive officer (CEO) and an elected staff representative will also join the board. Finally, the chief executive will have the power to choose lay members to fill any gaps on the board. Certain categories of people will also be barred from membership, including civil servants, public officers, executive and legislative councillors, members of Chinese political bodies and judicial officers. However, the ban will not extend to members of political parties.

Legislator Margaret Ng, from the Civic Party, argues that this arrangement will give the chief executive the potential to influence the composition of the board for up to 10 years. She writes: “It’s interesting to note that the board of directors would virtually have the power to appoint their own successors, because of the nominating committee’s structure. Thus, the independent

broadcaster would remain firmly under the chief executive's control for at least five to 10 years after its establishment."

The committee was set up amid allegations that the government was trying to rein in RTHK. But its chairman, Raymond Wong, denied this on several occasions. The final report also denied the allegation in a surprisingly robust manner. It says: "Right from the start, the review has been repeatedly misconstrued that it targets RTHK, and the Committee's mandate is to rein it in. Despite these periodic uninformed and undeserved denigrations, it has been the clear and unswerving position of the Committee that its task is to undertake a macro and comprehensive examination of PSB in Hong Kong."

RTHK reacted with predictable disappointment. Its head, director of broadcasting Chu Pui-hing, said: "As far as RTHK is concerned, we certainly feel the best way forward would be for RTHK to be transformed into a new public broadcaster. This would be the most reasonable arrangement, in line with public expectations, and in line with international best practices, to deal with the development of public service broadcasting."

The chairperson of the RTHK Programme Staff Union, Janet Mak, said the failure of the report to discuss the future of the broadcaster would affect staff morale.

A former RTHK director of broadcasting, Cheung Man-ye, came to the station's support. She accused the review committee of misleading the public in explaining why RTHK should not become an independent public broadcaster. She said: "One of the panel members, Mathias Woo, was frank enough to state it was because of RTHK's political stance that it is not suited to the new structure. The issue is press freedom and the principle of one country, two systems." Ms Cheung was forced to leave RTHK in 1999 following controversy over the broadcast of views expressed by a Taiwan representative in Hong Kong about the island's status as a separate entity.

The government minister responsible for RTHK, secretary for commerce, industry and technology Joseph Wong, insisted the government had an open mind on PSB and RTHK's future. He said the government would study the report before releasing a consultation document on the issue in the latter half of 2007. He also said—in June 2007—that the document would tackle RTHK's future, and that RTHK management and staff would be consulted.

In June 2007, legislators debated a motion calling on the government to "actively study the feasibility of transforming RTHK to become the Hong Kong Public Broadcasting Corporation." The motion was put forward by Democratic Party legislator Lee Wing-tat. The pro-democracy camp backed it, while the two main pro-government parties—the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) and the Liberal Party—abstained. The final vote was 26-2 in favour of the motion, but it failed because it did not receive sufficient support from functional constituency members.

In the meantime, moves were launched to support RTHK. The RTHK Programme Staff Union initiated a campaign to turn the broadcaster into an independent public broadcaster. It staged a protest at RTHK's headquarters and raised money to pay for further action.

In addition, a coalition of 16 organisations (including the HKJA) plus some human rights activists launched the "Save RTHK Campaign". The group argues that RTHK should not be sacrificed for a new public service broadcaster. It also says that RTHK—which has been in operation for almost 80 years—is part of Hong Kong's collective memory, and therefore deserves to be protected. However, at the same time, the group notes—as has the HKJA—that RTHK has become more cautious in its reporting, in the face of pressure from its critics.

This, the coalition maintains, has led to some cases of self-censorship.

The campaign launched an online petition in April 2007, calling for RTHK to be de-linked from the government structure and transformed into a truly independent public broadcaster. By June 2007, the petition had attracted almost 2,000 signatures. The International Federation of Journalists lent its weight to the petition campaign, while the New York-based Committee to Protect Journalists wrote to the chief executive, Donald Tsang, urging him to turn RTHK into an independent public broadcaster.

Such action is being taken in the face of suggestions that RTHK may be emasculated, abolished or—in the words of Chinese University journalism professor Kenneth Leung—turned into “the electronic arm of the Government Information Service or ... may be reduced to a government mouthpiece.” This latter scenario would be in line with demands from pro-Beijing critics of RTHK, who may well—critics allege—have been behind the government move to set up the PSB review committee in the first place.

RTHK FACES PRESSURE ON OTHER FRONTS

RTHK has come in for considerable criticism not just for being overly critical of the government. It has also been the focus of concern about its spending habits and corruption cases. It also came under attack on a new front—from the Broadcasting Authority. The spark for this was a documentary produced by RTHK’s TV service and broadcast in July 2006 about gay lovers and their attitude to gay marriage.

Following a number of complaints, the Broadcasting Authority ruled in January 2007 that the programme was “unfair, partial and biased towards homosexuality and having the effect of promoting the acceptance of homosexual marriage.” The authority’s executive arm, the Television and Entertainment Licensing Authority, had initially found in RTHK’s favour on this issue, but the controversy went to the authority’s complaints committee following a subsequent, single complaint. The full authority upheld the ruling of the complaints committee, which was concerned that the programme featured only the views of homosexuals, and not those opposed to them.

The HKJA expressed concern about the ruling, arguing that it was an overly narrow interpretation of the authority’s code of practice on television programme standards. It pointed out that the code does not require “absolute neutrality” on every controversial issue, and that “it is not always necessary to ensure that in a single programme or programme segment all sides have an opportunity to speak.”

The association called on the government to review the role and composition of the Broadcasting Authority and its complaints mechanism, to ensure that it was in line with prevailing community standards and to determine whether it was acting in accordance with programme codes of practise.

The HKJA also expressed serious concern about the intervention of the Secretary for Commerce, Industry and Technology, Joseph Wong, in the controversy. Mr Wong gave the impression—through a press release—that he was summoning RTHK’s head, Chu Pui-hing, to tell him that he must comply with the authority’s ruling. This came after RTHK issued a statement expressing concern about the ruling. Mr Wong’s spokesman said the issue had nothing to do with freedom of expression.

The meeting went ahead, amid concern that the authority’s ruling would make RTHK producers think twice about producing programmes dealing with controversial issues. However, a Legislative Council panel passed a resolution calling on the authority to withdraw its verdict. Groups representing

homosexuals and the film industry took a similar stance. The authority refused to give way—despite receiving many complaints about the RTHK case and a film broadcast on TVB which featured coarse language.

In June 2007, one of the interviewees on the RTHK programme, Joseph Cho, was given leave to appeal in court against the Broadcasting Authority's ruling. He argued that the authority's act constituted discrimination in the area of sexual orientation and an infringement on freedom of expression. He also argued that the body had no statutory power to monitor a government broadcaster.

On freedom of expression, Mr Cho's application stated: "The decision will have a chilling effect on the freedom to impart information on all broadcasters in Hong Kong."

This was one of several fronts on which RTHK faced pressure. In April 2006, the Audit Commission had accused RTHK of failing to comply with government regulations covering staff management, entertainment expenses, overtime claims, outsourcing of services and acceptance of sponsorship. In July of the same year, the Legislative Council's public accounts committee released its own report following hearings on the auditor's allegations. It accused the broadcaster of having poor internal management, although some analysts noted that the committee's criticism of RTHK was not as harsh as that delivered by the auditor.

RTHK also faced further pressure from the Independent Commission Against Corruption, which in October 2006 arrested a popular disc jockey plus two former RTHK employees over allegations that bogus claims had been made several years previously for scriptwriting fees. At press time, no charges had been laid. This was the latest in a string of high-profile ICAC cases against the broadcaster.

There is also concern over whether the government will bring in a civil servant or someone from the private sector to replace RTHK's head, Chu Pui-hing, when he retires in May 2008. A government administrative officer, Gracie Foo, became the broadcaster's deputy head in August 2006—because it was considered that no-one in RTHK's senior ranks was ready to take on the job. This argument is likely to be used once again when Mr Chu retires, raising the possibility that the top two posts in RTHK will be held by outsiders at a time when crucial decisions are being made about the station's future.

PUBLIC ACCESS ADVOCATES FACE TRIAL

Another issue that has been raised during the debate on the future of public service broadcasting has been the question of whether the public and civic organisations should have access to the airwaves. The issue came to the fore in August 2006, with the first of a series of raids against an unauthorized radio station called Citizens' Radio.

Six activists involved in the station will appear in court in July 2007 on 14 charges. They include establishing a means of telecommunications and using radio communications equipment without a licence. They started broadcasting in October 2005. The group called the move a "first step in the fight to open up the airwaves". The campaign was prompted by the departure from Commercial Radio of two critical talk-show hosts, Albert Cheng and Wong Yuk-man.

Those arrested included outspoken legislator Leung Kwok-hung and former legislator Tsang Kin-shing. They say they will base their defence on whether telecommunications legislation violates Hong Kong's Bill of Rights Ordinance. The magistrate hearing the case has adjourned it until a similar appeal in a separate case has been completed.

In a related development, the Executive Council rejected an application made by Citizens' Radio for a sound broadcasting licence. The application was submitted in September 2005. But a decision was not announced until 15 months later. In rejecting the application, the council said it had taken into account the feasibility of the station's technical proposal on the use of radio spectrum, as well as the management, financial and technical capability of the applicant to establish and maintain a sound broadcasting service.

Citizens' Radio expressed disappointment over the decision, vowing to continue broadcasts over the internet and in the street. Leung Kwok-hung said he may launch a judicial review to challenge the decision.

The whole controversy prompted pro-democracy legislator Albert Chan to initiate a motion debate in the Legislative Council. Mr Chan called on the government to open up the radio airwaves, establish public access television channels and implement digital broadcasting, which itself could lead to more radio and TV channels. However, the motion was voted down, with pro-government critics arguing that freedom of speech and media diversity were not under threat.

The HKJA has for several years called on the government to establish public access channels, for the sake of media diversity. This point was made to the review committee on public service broadcasting. It also argued that the airwaves could be opened up through the introduction of digital services.

However, the review committee adopted a lukewarm approach to the public access issue. It stated: "Public access broadcasting, if provided, should have regard to spectrum efficiency, especially as its primary objective of providing an open forum for public expression of opinions should be met at least in part by PSB." It now remains to be seen whether public access will be an issue in the government's consultation paper on public service broadcasting.

SECTION 2

Beijing exerts influence over Ching Cheong, Olympics coverage

Mainland China has weighed heavily on Hong Kong in the ten years since the 1997 handover. Its influence grew steadily in the run-up to the handover, as its officials outlined no-go areas for the media and admonished those it disliked. After the handover, its authority ran directly to the new Hong Kong government, which had to balance Beijing's demands and expectations with popular demands that the high degree of autonomy promised to Hong Kong in the 1984 Sino-British Joint Declaration must be respected.

Beijing's initial tolerance towards Hong Kong showed distinct signs of lessening in the wake of the half-million strong march against government attempts to enact draconian national security legislation. This ultimately led to the downfall of the first chief executive, Tung Chee-hwa, and the rise of former colonial civil servant Donald Tsang.

Beijing has rarely issued public orders on issues relating to freedom of expression. Instead, Hong Kong freedom of expression practitioners have learned to read the signals. These can at times be confusing. Hardline as in the jailing of patriotic journalist Ching Cheong. Apparently more liberal as in the announcement of new rules for news coverage in mainland China in the run-up to the 2008 Beijing Olympics. However, analysts have always warned that people should read the signals carefully. They are never as straightforward as they appear at first sight.

CHING CHEONG JAILING SHOCKS HONG KONG

At the end of August 2006, Hong Kong heard the news that it had feared for some time. A court in Beijing jailed veteran Hong Kong journalist Ching Cheong for five years for spying for Taiwan—a charge Mr Ching vehemently denied. Three months later, his appeal was brushed aside in a 15-minute hearing. The journalist was initially jailed in Beijing, but was moved closer to Hong Kong—amid hopes that he would be released on medical parole. That has not happened.

The Ching Cheong case has become symbolic of relations between the mainland and Hong Kong. The chief China correspondent for Singapore's *Straits Times* was detained in Guangzhou in April 2005 and moved to Beijing. He was formally arrested in August 2005—a strong indication that he would face trial.

Xinhua news agency said Mr Ching had confessed to passing on secret political, economic and military information to Taiwan in return for large sums of money—a charge that shocked many in Hong Kong given that he had until 1989 worked for the pro-Beijing *Wen Wei Po* newspaper. His wife, Mary, said at the time she thought the arrest was linked to attempts to obtain a manuscript of secret interviews with deposed Chinese Communist Party secretary-general Zhao Ziyang, who died in January 2005.

The HKJA and other support organisations pressed for Mr Ching's release, but to no avail. He faced a seven-hour closed door trial in mid-August 2006. On August 31st, the trial judge announced a five-year sentence. Xinhua news agency noted that the sentence was lenient, given that—as the agency put it—Mr Ching had cooperated in providing details of his espionage activities. Xinhua also said that the journalist was found guilty of sending state secrets and intelligence to a foundation in Taiwan between May 2004 and April 2005—in return for payment of HK\$300,000. Xinhua said the foundation was a

spying organisation.

However, Mr Ching said in a statement delivered by his lawyer to his wife, that he was not guilty and he found the trial to be very unfair, noting that the judge only took on board evidence given in favour of the prosecution, while ignoring evidence which was to his advantage.

Mr Ching appealed against the sentence, but this was rejected in late November 2006. The higher Beijing court ruled that the original verdict was “accurate in application of the law and an appropriate punishment.” In January 2007, the journalist was transferred to a jail in Guangzhou. In the following month, his family was allowed to visit him. His brother reported that he had spent some time in hospital, with an irregular heartbeat, gastritis and a duodenal ulcer.

The HKJA and other organisations were involved in campaigns calling for Mr Ching’s release on medical parole, given that he was suffering from stomach problems and high blood pressure. In late December 2006, the HKJA submitted to the government a petition signed by 3,009 people. The Ching Cheong Incident Concern Group handed in 1,779 names, including that of the former chief secretary Anson Chan.

A total of 45 legislators from across the political spectrum signed a similar petition. And the Legislative Council endorsed a motion calling on the chief executive and others to help secure Mr Ching’s release on humanitarian grounds. In reply, the secretary for security, Ambrose Lee, said the government had assigned an official to keep in contact with Mr Ching’s family and to provide necessary assistance. Advocacy groups continue to call for Mr Ching’s release.

One month after Mr Ching’s verdict was rejected, a Beijing court sentenced a mainland academic, Lu Jianhua, to 20 years in jail for leaking state secrets, in a case that was linked to the Ching Cheong trial. A pro-Beijing newspaper in Hong Kong reported that the Chinese Academy of Social Sciences academic had written articles for Mr Ching that contained top state secrets. It said Mr Ching then passed on the articles to the Taiwan foundation.

Analysts said the sentence handed down on Mr Lu was particularly harsh, given that only those involved in very serious cases would be sentenced to more than 10 years in jail. The academic’s wife expressed shock, saying the outcome of the hearing was predetermined and the court did not need any evidence to record a conviction.

Mr Ching’s case is significant because of the chilling effect it has on media coverage of China affairs. Many Hong Kong journalists work on the mainland and they know they can face harsh retribution if they stray over ill-defined lines imposed by the Chinese government.

MAINLAND AUTHORITIES ANNOUNCE NEW REPORTING RULES

In December 2006, the Chinese authorities announced that they would ease regulations on foreign reporters, as well as those from Hong Kong, Macau and Taiwan. The new rules came into effect on January 1st 2007, and will expire on October 17th 2008—less than two months after the completion of the Beijing Olympic Games—which became the catalyst for the change.

Under the new rules, accredited journalists will be allowed to interview Chinese citizens without prior government approval, as long as the interviewee gives consent. They will also be allowed to hire mainland assistants through authorised agents and to bring in equipment without financial or personal guarantees.

The old rules were far more restrictive. Rules governing Hong Kong journalists

were introduced shortly after the June 1989 suppression of the pro-democracy movement in China. Rules for foreign journalists were introduced in 1990. At the end of 2006, more than 600 correspondents from around 300 media outlets from 49 countries were stationed in China.

An additional 3,000 to 5,000 reporters travelled to the mainland to cover individual news events in 2006. They must seek approval from the Chinese Foreign Ministry, the Taiwan Affairs Office or Beijing's liaison office in Hong Kong, according to their place of origin. They can only cover the event they are applying for, and they are unable to hire local Chinese people as their assistants. Journalists have been critical of these regulations for many years.

In the run-up to the Olympic Games, media and human rights organisations expressed concern about how limits on press freedom in China might affect the spirit of the sporting event. Indeed, the Paris-based group Reporters Without Borders (RSF) launched a campaign in 2001 to boycott the Beijing Olympics. To a certain extent, China's decision to set new rules was a reaction to such pressure.

Various journalists' associations, including the Committee to Protect Journalists, initially welcomed the move. But they later expressed concern that the mainland authorities were backtracking by imposing additional restrictions on local journalists, in particular assistants and researchers working for foreign correspondents.

The deputy Asia director for Human Rights Watch, Sophie Richardson, said: "The Chinese government is already failing to deliver on its pledge to fully lift restrictions for foreign journalists ahead of the Beijing Games. These arbitrary restrictions on press freedoms undermine the new regulations, and raise questions about the government's commitment to implement them in the first place."

Reaction from frontline journalists has been mixed. Some Hong Kong journalists describe the change as a "breakthrough" because they will be able to conduct their interviews more quickly, without having to seek advance government approval. They say this is especially true if the interviewee is a government official.

However, other journalists—from both Hong Kong and overseas countries—do not see many advantages. Some say they already carry out interviews without prior approval. Others say they bypass official rules by telephoning their contacts from Hong Kong, especially if they are business sources.

Once the latest relaxation took place in January 2007, several media organisations tested the new rules by seeking interviews with dissidents or other sensitive individuals, who were previously off-limits. Journalists managed to interview ousted premier Zhao Ziyang's former assistant Bao Tong, the wife of jailed Mongolian editor Hada, and AIDS campaigner Hu Jia. Media organisations were also allowed to make working visits to sensitive provinces such as Inner Mongolia. Such visits were previously very difficult to arrange.

However, the new rules are not followed strictly. Up to mid-February 2007, Reporters Without Borders recorded five incidents of non-compliance. There were reports that police barred journalists from meeting Shanghai-based lawyer Zheng Enchong, as well as lawyer Gao Zhisheng, who was serving a suspended sentence. The authorities claimed that interviews were not possible because the lawyers had been deprived of their political rights.

Lack of information and misinterpretation of the rules caused other problems. The Foreign Correspondents' Club of China (FCCC) received a number of reports that journalists were stopped from conducting interviews outside Beijing because local officials claimed that "the topics were not related to the

Olympics". This contrasts with comments made by Foreign Ministry officials when the rules were unveiled. They indicated a relatively broad interpretation of what sort of reporting would be covered, including economic, cultural and political topics. The FCCC's chairperson, Melinda Liu, expressed hope that the spirit of that understanding could prevail.

Ms Liu also noted that local officials continued to detain or question foreign correspondents who were reporting at grassroots level—even after the new rules came into force. She said the FCCC was trying to find out what happened in such cases, some of which also involved local assistants. She also noted that the FCCC had recorded 80 cases of violation of journalists' rights from 2004 to the end of 2006.

Journalists have also reported problems working in sensitive regions such as Tibet. Reporters without Borders noted that the Foreign Ministry warned two Western journalists about their reporting in Tibet. The China correspondent for the German daily *Frankfurter Rundschau*, Harald Maas, was told that his reporting was a "mistake" and that although he had the right to travel to Tibet under the new rules, he still had to obtain permission from the Foreign Ministry office in Lhasa. Another reporter, Tim Johnson from the US McClatchy group, was told by the same official that the new rules did not apply at all to reporting in Tibet.

It appears other tactics are at work to prevent journalists from contacting potential interviewees. A well-known AIDS activist from Henan province, Gao Yaojie, complained that her telephone had been disconnected after she returned from the United States to receive an award. This prevented any journalist from seeking her consent for a telephone interview under the new rules. However, some people were able to gain access to Ms Gao by traveling to her home. This depended to a large extent on the attitude of the police stationed outside her home.

Journalists also complained that they were unable to contact dissidents in Beijing during sensitive periods, because the individuals were often moved out of the capital. This is particularly true during the annual meetings of the National People's Congress (NPC) and the Chinese People's Political Consultative Conference (CPPCC).

Further, such sensitive periods can arise without warning. For example, AIDS campaigner Hu Jia, who gave interviews shortly after the regulations were eased, could not be contacted by outsiders after mid-April, on his return to Beijing from Hong Kong.

Apart from the use of these so-called "soft" measures to prevent journalists from interviewing sensitive individuals, the authorities continue to use "hard" measures. They still ban certain publications, including the critical Hong Kong newspaper *Apple Daily*, from covering official meetings. Even one of Hong Kong's pro-Beijing newspapers, *Wen Wei Po*, has encountered problems. Its accredited reporters were denied entry several times to meetings of Shenzhen's people's congress in late March 2007. The authorities claimed that those meetings were open only to mainland reporters.

Media analysts say that it will be interesting to see how the mainland authorities handle applications from the likes of *Apple Daily* to cover the Olympic Games, and how they differentiate between mainland, Hong Kong and foreign journalists. They say this will be a real test for China in showing how it respects international press freedom practices.

They also say it will be important to see how mainland journalists will benefit from the new rules, and whether they will continue in force after October 2008. The head of the State Council Information Office, Cai Wu, said that the

new rules could remain in force, if they “prove effective”. That remains to be seen.

YAHOO! HONG KONG CLEARED OVER PRIVACY COMPLAINT

Another issue that highlighted the complex relationship between Hong Kong and the mainland was the privacy complaint against Yahoo! Hong Kong, which was accused of passing on information to the mainland authorities that led to the jailing of a mainland journalist.

In March 2007, Hong Kong’s Privacy Commissioner cleared the company over a complaint that it had violated the SAR’s privacy law. The mainland journalist, Shi Tao, was imprisoned for 10 years in 2005 for revealing state secrets—namely a circular that itemised restrictions on the media. The information was provided in an email sent from Mr Shi’s Yahoo account. It was alleged that information relating to the account was handed over to mainland law enforcement officers.

The Privacy Commissioner, Roderick Woo, concluded that while email and IP addresses, as well as a telephone number and business address were handed over, it could not be safely concluded that this information belonged to a real person, and not a company or fictitious person. However, Mr Woo pledged to look at possible grey areas in Hong Kong’s privacy law.

The ruling did not satisfy Hong Kong academics, who argued that the information was personal data which could—with a high probability—be used to identify the user. Democratic Party legislator Albert Ho vowed to appeal against the ruling.

Other supporters of Shi Tao are also not giving up. Mr Shi’s mother, Gao Qinsheng, has filed a lawsuit in a California court seeking compensation from Yahoo for disclosing the journalist’s personal internet user identity to the mainland authorities. Ms Gao said: “I (filed the suit) not only for Shi Tao, but for hundreds of thousands of other journalists and internet users. It is wrong for them (Yahoo) to give the information to the government.”

In addition to concern about Yahoo’s unauthorised release of personal data, the firm also came under fire because of the tough approach taken by Beijing against those who express dissenting views. Activists say that Yahoo gave information that led to other jailings, including a 10-year sentence for Wang Xiaoning, who was convicted for calling China an authoritarian dictatorship and urging free elections.

The HKJA expressed dissatisfaction over Yahoo’s actions. It called on the internet firm to comply with the United Nations Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with regard to Human Rights, which encourage multinationals to refrain from any activity that supports or encourages states to abuse human rights. Other media analysts called on firms such as Yahoo to reconsider the way they do business on the mainland, given the repercussions that their actions can have on mainland dissidents or free speech advocates.

Academics, free speech advocates and multinational corporations are now studying the feasibility of drafting a code of ethics concerning the handling of sensitive internet information.

SECTION 3

The growing scourge of self-censorship

By To Yiu-ming, Assistant Professor, Department of Journalism, Hong Kong Baptist University

Before and after Hong Kong's handover to China, many local and overseas groups have been paying close attention to the problem of self-censorship in order to understand the troubles and threats that Hong Kong's media organisations are facing.

Journalists have particularly strong feelings about this issue. Many view growing self-censorship as a sign of decreasing press freedom in Hong Kong.

According to the results of a Lingnan University public opinion survey commissioned by the HKJA, almost sixty percent (58.4 percent) of journalists thought the current press freedom in Hong Kong is less than it was at the time of the 1997 handover. Among them, more than seventy percent (72.5 percent) believed that self-censorship is the most important indicator of decreased press freedom and a major issue being confronted by the trade.

It is thought that media self-censorship is not only here to stay, but is getting worse. According to a survey this year by the Hong Kong University's Public Opinion Programme, close to half the respondents—a 10-year record high—believed Hong Kong's news media perform self-censorship. A further 61.3 percent noted that media are apprehensive about criticizing the central government, a record high since 1998. Within the trade, close to thirty percent (29.5 percent) of journalists admitted self-censorship in handling news, whereas in 1996 21 percent confessed in a Chinese University survey that they hesitated to criticise the Chinese government. The situation is definitely serious.

So what has led journalists to feel that self-censorship is worsening and press freedom is less than in the past? What can journalists do in the face of various pressures or incentives to self-censor? To facilitate comparison of the situation around the 1997 handover and the present, this article will be based on the HKJA's 10-year-old analytical framework for self-censorship and analyses changes to each of the causes that generated self-censorship in the past decade. This way, we can understand the manifestation and impact of news self-censorship from the external environment and internal restrictions of news operations.

SELF-CENSORSHIP AND ITS IMPLICATIONS

News self-censorship points to journalists or organisations restraining themselves; withholding news stories or commentaries worthy of publication. Such censorship acts arise from considerations other than news on the part of the news organisations or journalists themselves, who take the initiative to give up making editorial decisions based on news judgment. Obviously, self-censorship involves three aspects: the intention of the culprit, the news value of the stories or commentaries in question, and the objective(s) of self-censorship.

A recent example is the silence of some media organisations regarding remarks by the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) party chairman, Ma Lik, who opposed labelling the June 4th "incident" a "massacre". Although former Communist Party leaders deployed a large number of armed troops to Beijing to suppress the democratic movement 18 years ago, and wounded or killed many people, Mr Ma solemnly explained during a get-together with reporters in mid-May 2007 that the incident did not

qualify to be a “massacre.”

Reporters from 11 local newspapers were present on that occasion. However, Mr Ma’s remarks were reported in only six newspapers, of which only four published the story prominently. Those media which were blind to these remarks or played them down can hardly be cleared of the suspicion of self-censorship. From the news perspective, Mr Ma’s comments reflected his political orientation and personal beliefs. Regardless of whether the views are correct or absurd, the public indeed has the right to know that Mr Ma, as the leader of Hong Kong’s biggest pro-Beijing political party, an elected legislative councillor, and a delegate to China’s National People’s Congress (NPC), made a statement that departed from historical fact and voiced opinions that contradicted public knowledge.

Some publications either remained silent or gave Mr Ma’s remarks only a brief mention. Of course, they had their own calculations. But whether they were refraining from touching public nerves in order to avoid jeopardizing Sino-Hong Kong relations or protecting their friend so as to avoid making a pro-Beijing political leader a target of public criticism, they were replacing original news judgment with considerations other than news values in deciding whether to keep or discard the news story and play it up or down.

This has thus become a typical self-censorship example. On other occasions, before ascertaining whether something is worth covering or reporting, journalists would start by focusing on the political consequences or considerations other than news, such as seeking rewards and avoiding revenge, and eventually give up the idea of coverage or reporting.

In other words, self-censorship can either be a deliberate act (the journalist intentionally disregards his news judgment, allowing other considerations to override it); or it can result from dereliction of duty (not exercising one’s professional judgment and leaving editorial decisions to be dominated by various calculations). Regardless of whether it is deliberate or indiscreet, such editorial decisions mean the journalists betray news values, desert the social responsibility of the press and fall short of society’s expectations of the media.

SELF-CENSORSHIP: FAILURE OF PROFESSIONAL NORMS AND A SOCIAL MECHANISM

From the perspective of the norms of conduct, news self-censorship is complete failure of professional conduct as it works against the principles of operating in accordance with news values and gives up such principles. However, it takes tremendous effort to investigate each complaint relating to suspected self-censorship. Those being investigated must fully cooperate by answering queries and providing related information in order to establish that the relevant personalities or institutions not only suppress newsworthy information or give the information a complete facelift, but they also have the intention to self-censor, i.e. they make decisions against news judgement based on considerations other than news.

At the same time, it is not difficult for news organisations to put up a defence, saying the acts being criticized have all been the editors’ autonomous decisions and unrelated to self-censorship. They can argue that even though their judgement may be unwise or even deviate from the norms of journalism, they have not reached the stage of purposefully committing the wrongdoing against their conscience. Lacking the testimony of more informed people, many accusations inevitably become unsolved mysteries and fall short of conclusions.

As a matter of fact, other than a case of failing professional conduct, self-censorship can be viewed as a key option in the existing social mechanism to explain abnormal behaviour in news coverage. For example, some supermarkets

were recently found to sell oil fish for cod, resulting in customers suffering from diarrhoea. However, some papers mentioned the incident only briefly and even failed to provide the names of the shops involved, which is against common expectations.

Self-censorship can be used to account for this kind of violation of news norms, especially when the news organisation has a close advertising relationship with the news target and an honest report may jeopardize their cooperation, threatening to shatter the economic interests of the publication. Self-censorship thus becomes reasonable behaviour within the network of economic cause and effect. It is thus obvious that not only can self-censorship explain specific news behaviour, but it can also be justified as a move to escape sanction or safeguard interests.

Since 1993, the Hong Kong Journalists Association and Article 19 have been publishing annual reports on Freedom of Expression in Hong Kong (FOE), which record cases and suspected cases of self-censorship, and on the basis of which, voice criticisms and argue for a correct course of action. More importantly, they take a wider view to understand the self-censorship phenomenon arising from various pressures inside and outside news institutions. In doing so, this process pierces abnormal performances in the media sector so that journalists would be on the alert and take precautions to guard against self-initiated limitation due to considerations other than news.

In simple terms, self-censorship is a choice of behaviour by journalists or institutions to respond to tangible and intangible restrictions inside and outside the trade. Therefore, any analysis should not be focused solely on exploring the media or the journalists' conduct and decisions, but more importantly on probing the institutional factors that encourage self-censorship as well as the interaction between journalistic behaviour and institutional restrictions. Doing so is not to say that practitioners of self-censorship can clear themselves of responsibilities or that investigators need not work hard to look for evidence any more, but to urge everyone to probe deeper to the roots and identify the institutional incentives inducing self-censorship. This will expose the pressures and threats being faced by press freedom before countermeasures can be identified.

INTERNAL AND EXTERNAL PRESSURES ON MEDIA TO SELF-CENSOR

For many years, the FOE Annual Report has largely followed this thinking to explore the relationship between self-censorship and freedom of speech. The 1997 Annual Report went further to outline the social mechanisms, organisational restrictions and psychological pressures that elicit self-censorship from three aspects—direct and indirect pressures from outside the media, internal pressures of the media, and self-censorship assimilation. It was an attempt to understand the various challenges being faced by the press and clearly identify the forces inside and outside the journalism industry that undermined press freedom. To facilitate comparison, the parts below will use the analytical framework adopted in that annual report and discuss point by point the features, changes and trends of self-censorship pressures after the handover.

I. DIRECT AND INDIRECT PRESSURES OUTSIDE THE MEDIA

Apparently, the categorization of self-censorship pressures by the HKJA and Article 19 in 1997 is now not sophisticated enough to discuss the highly complicated external pressures. Ten years ago, outside censorship pressures fell into four categories—verbal threats by officials, advertising sanctions against “unfriendly” publications by mainland enterprises in Hong Kong, pressures exerted by Beijing on other businesses operated by the parent company

running the media, and restrictions of reporting trips to the mainland. The many incidents the press went through in the past decade serve as a testimony to the increasing strength and diversity of censorship powers.

1. Political pressures

If certain Beijing officials were said to put forward empty advance warnings to the Hong Kong media, such as “don’t promote the independence of Taiwan or Tibet,” and “don’t make personal attacks on Chinese leaders” before 1997, their declarations after 1997 more often criticised or even condemned specific practices by the local media.

There were two main areas of their dissatisfaction, one being the local media’s tenacious coverage that touched the officials’ nerves. For example, Su Xu, First Secretary at the Chinese embassy in Paris, publicly scolded a TV reporter covering a visit by Premier Zhu Rongji (1998 Annual Report). On another occasion, President Jiang Zemin ridiculed reporters, calling their questions “too simple and sometimes naive” (2001 Annual Report). The other area of dissatisfaction revolved around local media practices that touched the political bottom line of the central government. For example, Wang Rudeng, assistant director of Beijing’s main office in Hong Kong, the then New China News Agency, hit out at Taiwan’s representative in Hong Kong for discussing the “two-states theory” in an RTHK program (2000 Annual Report). Eight months later, deputy director Wang Fengchao of China’s liaison office accused Cable TV of advocating Taiwan independence by interviewing Taiwan’s new vice-president Annette Lu (2000 Annual Report).

Apart from expressing dissatisfaction, such public criticism serves another important purpose of establishing “politically correct” standards for the media to obey so as to avoid antagonizing Beijing in future. Contrary to the pre-1997 era, officials now act on behalf of the central government to interfere with journalistic activities in the SAR through official comments. Although such comments do not bear any legal weight, it is clear to all that anyone disobeying opinion standards set by the central government is being “politically incorrect” and may even be viewed as being hostile to the central government. Because of this, RTHK has never again allowed Taiwan’s representative in Hong Kong to expound on the two-states theory in the past seven years. Neither has any local media organisation interviewed Annette Lu again to discuss the future of Taiwan.

Scolding Hong Kong media in this manner serves to mobilise local pro-Beijing forces. As the central government is hypersensitive to Taiwan independence views and even regards coverage as advocacy and takes words for action, pro-Beijing politicians are not only quick to side with officials and echo their views, but also take up the role of a media watchdog by arming themselves with such views of the central government. Among them all, RTHK, being both a government department and a public broadcaster, has repeatedly become the target of public criticism. Episodes ranging from being criticized for addressing Chen Shui-bian as Taiwan President (2001 Annual Report), Candy Chea’s proposed interview with Annette Lu (to discuss the early release of a jailed Hong Kong singer), being accused of advocating two Chinas (2002 Annual Report), and being requested to help the government explain policies, have all exerted considerable pressure on RTHK.

The power of political threats, coupled with the development of the political situation, reached a historic high since the 1997 handover in early 2004 with the emergence of the patriotism debate. Again and again, central government officials put forward the concept of “patriotism” as a basic requirement of Hong Kong’s ruling elite, to suppress the strong appeals for democracy since half a million people took to the streets on July 1st, 2003. Eventually, the Standing

Committee of China's NPC re-interpreted the Basic Law, ruling that political reform must be endorsed by Beijing in advance and ruling out universal suffrage in 2007 and 2008 for the election of the Chief Executive and the Legislative Council.

It was ironic then that in the face of Beijing eroding Hong Kong's autonomy, the editorials and commentaries of most newspapers approved Beijing's views. Some newspapers that purportedly cater to intellectuals did not adopt a clear stance in their editorials. Only very few newspapers staunchly opposed this tide of patriotism and the re-interpretation of the Basic Law to block political reform. It would be disappointing if the docility of the media was purely the result of rational deliberation rather than fear of the authority demonstrated by the central government to Hong Kong people, because this shows that most media organisations do not possess the values or are not learned enough to be aware that they can speak out to safeguard Hong Kong's high degree of autonomy under "one-country, two-systems."

2. Threats of violence

Before 1997, there were occasional physical attacks on journalists. But these were far less severe than what happened after the handover. In August 1998, the host of Commercial Radio's *Storm in a Teacup* phone-in programme, Albert Cheng, was chopped by some thugs. The incident caused widespread concern throughout Hong Kong. Six years later, Mr Cheng—plus fellow programme hosts Raymond Wong and Allen Lee—were forced off the air by the worst intimidation seen since the 1967 riots. The messages they received, which included pleas, nuisance phone calls, a street attack and death threats, all caused them alarm. Coupled with the appalling political atmosphere since the patriotism debate, they decided one after another to pull out of Commercial Radio.

Such extreme cases do not happen frequently, but they clearly show that even though Hong Kong claims to be a society enjoying the rule of law, some people can still operate by radical means and eventually gain their purpose—in the worst possible manifestation of Hong Kong's rule of law.

3. Restrictions on coverage

After 1997, Hong Kong reporters still need to obtain permission from the mainland authorities to cover events on the mainland. To date, the Next Media Group, which publishes *Apple Daily*, is still not granted permission. This is obviously related to the group's political stance. The past decade has seen countless incidents of Hong Kong reporters being hampered or even detained for investigation while covering events on the mainland. Occasionally, the authorities even blocked coverage on a massive scale (as in 1999 when Hong Kong students visited Beijing to protest against the re-interpretation of the Basic Law by the Standing Committee of China's NPC). There were also incidents when interviewees treated reporters with violence (such as in May last year when reporters were attacked while covering a hospital dispute).

Locally, as police strengthen the control of protesters' demonstration areas and format, reporters covering these protests also become subject to unnecessary restrictions and even violence. During a petition for the right of abode in 2002, two reporters left the press area, which was far from the actual demonstration, and approached the protesters to seek their views. The journalists were handcuffed by police. On another occasion in 2004, police took away two reporters by force while dispersing demonstrators protesting against the NPC standing committee re-interpretation of the Basic Law. Such examples were rare before 1997.

4. Arresting reporters

In 2005, Hong Kong journalist Ching Cheong was arrested in mainland China. He was eventually tried and jailed. The incident sparked local and international concern that the rule of law and freedom of speech was being harmed. It is a replay of the case involving Ming Pao reporter Xi Yang, who was jailed on the mainland and then released shortly before the handover.

Beijing accused Ching Cheong of espionage. However, there were doubts about the veracity of evidence and testimony. According to sources close to Ching Cheong, his arrest was reportedly related to two incidents—his attempt to obtain a manuscript of an interview with the late former Communist Party Secretary-General Zhao Ziyang and a September 2004 article in Ming Pao in which he criticised former President Jiang Zemin for signing an agreement with Russia, giving up China's claim on about 1.6 million square kilometers of territory and demanding that Mr Jiang explain his position to the Chinese people.

We do not know the real reasons behind Mr Ching's arrest. However, jailing a veteran journalist who dared criticise state leaders without a valid charge, on top of the Chinese Communist Party's longstanding practice of incrimination for speech, casts an unshakable political shadow that even outspoken journalists or writers cannot afford to ignore.

II. COMMERCIAL PRESSURE

1. Advertising boycott

Before 1997, Beijing reportedly used economic means to hit out at newspapers classified as being hostile, whereby mainland-related companies would not place advertisements. After 1997, such acts did not have to be directed by Beijing. According to an *Asian Wall Street Journal* report in 2000, the then special assistant to the chief executive, Andrew Lo, once advised property developers not to place adverts in *Apple Daily*.

The owner of the Next Media Group, Jimmy Lai, recently stated in public that the previously short-term, intermittent boycott by property developers' advertising agents, whether due to Andrew Lo's lobbying or not, had become a long-term and fixed measure. The boycott is estimated to cost the group HK\$200 million in lost income every year. Although the ad boycott has not shifted Next Media's political stance, it serves to forewarn other media organisations that holding opposing political views can lead to tremendous financial losses.

In fact, the advertising boycott has been a habitual measure employed by large organisations to express dissatisfaction to media organisations. Some journalists have grumbled in private that property developers had either individually or collectively withdrawn adverts following undesirable press reports (such as flat sizes being exaggerated in sales brochures, developers exaggerating sales figures) to punish the newspaper concerned and demonstrate the consequences to other papers.

2. Media ownership

The economic downturn sparked by the financial crisis brought about more variables to the already intensely competitive media market. Traditional media groups such as Sing Tao, encumbered by the bursting of property bubbles, suffered losses year after year and accumulated immense debts. It was eventually sold, to pro-Beijing businessmen who jumped at the opportunity. After getting involved in the media industry through acquisition, they

adjusted the orientation of their news coverage, to represent yet another force in support of Beijing's opinions.

Beijing also has more direct means to strengthen relationships with the local media and sway public opinion, such as conferring official positions on media owners. For instance, in an unprecedented move in early 2003, Beijing appointed seven media owners as delegates to the Chinese People's Political Consultative Conference. When they were treated as friends and subsumed into the political establishment, even if their media did not actively promote Beijing or the SAR government's viewpoints, they would inevitably take into consideration the views and perspectives of the central government in publishing news information that would be regarded as sensitive (such as the June 4th candlelight vigil, July 1st march).

The HKJA considers this issue in greater depth in chapter 5.

III. INTERNAL PRESSURES WITHIN MEDIA ORGANISATIONS

Before 1997, various sources of internal pressure within media organizations were noted. They either came from intervention by non-editorial staff of the media company or reporting guidelines issued by newsroom managers. These pressures have remained effective after 1997. For instance, the removal of China editor Willy Lam by the *South China Morning Post* was linked to a letter to the editor from the newspaper's chairman, criticising him.

For frontline journalists, however, what they feel most are editorial decisions and oral instructions that defy news values from the newsroom's senior staff. The case filed by Cheung Chung-wah against Metro Radio demonstrated the principles by which some news managers acted as gatekeepers. For one, they are extremely careful not to give the government any impression that they hold dissenting views. Reporters have also received clear instructions to handle with great care news items concerning companies controlled by Metro's owner, Li Ka Shing. This is an exemplary case of self-censorship as news judgements are not based on the public values of news, but rather give way to other considerations, even to the extent that news values are compromised.

Since the return of sovereignty, self-censorship by news management has involved wide-ranging topics and methods. Some are small-scale acts that may escape our attention. These include: Removing "sensitive" shots from TV coverage (protesters holding Tibetan flags), lowering the audio volume of protesters chanting "politically incorrect" slogans ("Taiwanese is not Chinese"), and avoiding interviewees that the media owner or senior management finds unacceptable.

Others are more noticeable as they have caused conflict between the censor and the censored. Among the notable examples are: Avoiding politically sensitive topics (the fashion magazine *Marie Clare* backed down from reprinting a feature on Tibet), holding back coverage that may stir up controversy (withholding a documentary on Xinjiang's separatist movement), dismissing journalists not to the media boss's liking, partisan news coverage (conspicuous support for Beijing-favoured candidates running in the Taiwan presidential election), forcing out high-risk journalists (Willy Lam, Albert Cheng and Raymond Wong), and countless other examples.

The pinnacle of self-censorship sees acts damaging not only to freedom of the press but also to media organisations themselves. Giving up popular and profitable current affairs programmes (*News Tease* by Asia Television and *Storm in a Teacup* by Commercial Radio) is one case in point. If cutting *News Tease* before 1997 by ATV represented only giving up a marginal programme (once a week outside prime time), terminating the *Storm in a Teacup* phone-in (five times a week during prime time) by Commercial Radio in 2004 can be

described as proactively slashing an effective operation mode and starting all over again. Such a move carried remarkable risks and would be unthinkable if it had not been induced by tremendous pressure.

IV. THE AMBIENCE OF ALL-PERVASIVE SELF-CENSORSHIP

The origins of pressure for self-censorship have become more complicated and the pressure is mounting, affecting frontline reporters, editorial management and even senior media executives. The results of the HKJA's public opinion survey serve as proof from those inside the journalism trade that self-censorship has become widespread today, 10 years after the handover.

Below are several particularly noteworthy points from that survey:

1. Among the journalists polled, 58.5 percent think that the current level of self-censorship by journalists is more serious than before 1997;
2. Close to four out of 10 (39.6 percent) are aware that some colleagues have self-censored while handling news in the past year, and close to three out of 10 (29.5 percent) admit that they have self-censored;
3. The most common cases of self-censorship include playing down negative news items concerning the central government (20.8 percent), playing down news items that the central government may regard as sensitive (20.8 percent), inclining towards supporting the Chinese government's policies or stance in coverage (six percent), playing down negative news items concerning the media owner or his related interests (16.2 percent), playing down negative news items concerning businessmen or corporations which have significant influence over their advertising revenue (13.4 percent), playing down negative news items concerning the SAR government (14.4 percent), and slanting news in favour of the SAR government (6.7 percent).

These figures show that in the eyes of journalists, self-censorship is an undisputable fact—and it is spreading. Apart from an increasing number of self-confessed censors (before 1997, only 21 percent admitted being apprehensive of criticising the Chinese government), 40 percent of journalists know (not guess) colleagues who have censored themselves.

It is thus apparent that self-censorship has become a common phenomenon in the journalism trade. This is fully understandable given the mounting pressures on the media as summarised above. In addition, journalists may now pay more attention to self-censorship than before, or self-censors are covering up less, which means it becomes more noticeable. If the latter becomes common, it can be inferred that such professional misconduct in the trade has become a work option that elicits no guilty conscience and need not be evaded, reflecting that self-imposed moral restraints to prevent self-censorship are gradually being undermined. This should not be taken lightly.

SECTION 4

Government sharpens its news control skills

By HKJA press freedom sub-committee member Mak Yin-ting

The media is a powerful tool for shaping public opinion. A large body of literature has shown that government institutions are the most frequently used sources in news reporting, and their views are most often presented in news stories, regardless of country or political system. However, the government can approach the art of spin in several ways: By providing neutral information, by spinning the news by dispatching favourable information, or by completely suppressing unfavourable news.

The spinning of news is especially important to the Hong Kong government because its head of government, the chief executive, is not elected by the people. As a result, the executive arm has to obtain “consensus” from the public via the media.

However, the scope of the news that the government spins and the degree of success in presenting such information has varied over the past decade.

ACCESSIBILITY OF INFORMATION

Hong Kong claims to be an open society. In reaction to a campaign led by the Hong Kong Journalists Association (HKJA), the British colonial government promulgated a code on access to information in 1995. Just after the handover, the HKJA conducted a survey to test the accessibility of information under the code. The HKJA reported that the government had failed the test—a point disputed by the administration. (See 1998 annual report) However, in many ways, the reality is that the government has become less accessible since then.

According to a survey conducted by the HKJA in January 2007, 30.3 percent of journalist respondents thought the current government was less open compared with the administration at the time of the handover in 1997. A slightly smaller proportion—26.3 percent—thought the government was more open, while 19 percent thought the two governments were similar in releasing information.

However, the general public did not share the experience of journalists. Among 734 public respondents, 45.6 percent thought the current government was more open, while only 24.4 percent thought otherwise.

In an email sent to the HKJA in June 2007, the director of information services, Edward Yau, noted that the range of views in the survey made it difficult to draw any definite conclusion from the data. However, he said the government’s policy was to be as open and accessible as possible. Mr Yau said this had not changed over the past ten years; nor would it change.

However, detailed discussions with journalists who have been in the industry for 20 years or longer find that this is not the case. The public perception that the government is more open may have more to do with confusion over the fact that the government has become more reactive to incidents and comments. It is true that more press conferences have been held, more stand-ups have been organised and the government is more prepared to issue statements after significant events take place—spurred by the growing willingness of the media to publish such comments, even if they are just repetitions of the government line. However, things get tougher when the media takes the initiative to seek government information.

THE GOOD OLD OPEN DAYS

Veteran journalists agree that the most open government was the administration led by the last colonial governor, Chris Patten, who was in Hong Kong from 1992 to 1997. Officers in charge of particular policies could often be accessed directly, sometimes even by a telephone call to their direct work or home number—and even by a less experienced reporter. This is almost impossible with the current government. Media enquiries now have to be faxed to information officers of particular policy bureaux—and replies are often repetitions of government lines. The editor-at-large of the *South China Morning Post*, Chris Yeung says: “You will not get a useful answer in the reply”.

The delegation of power to the official in charge to answer media enquiries has been the trend in Western countries since the 1980s. Hong Kong followed suit in the final years of the colonial era. But this was reversed after the first post-handover chief executive, Tung Chee-hwa, took office. One reason has been a shift in the policy-making process.

Government officials say that in the colonial days, policy was formulated basically from the bottom up. At the bottom, a policy would be drafted and discussed—often with input from representative organisations. Different options were considered, with discussion of both pros and cons. When a proposal was finalised, it was moved to the top level of the government, including the Executive Council. The adopted version did not deviate very much from the initial proposal, although some proposals were sometimes returned to a lower level for further information or slight amendment. Given this system, officers in charge of an issue could comfortably disclose some details to the media without the risk that there would be radical changes.

However, during the Tung Chee-hwa era, a small circle at the top level of government might come up with policy ideas without going through deep consideration or internal consultation. The officials were also not confident that their proposals would be in line with those of their leader, and therefore did not dare to stick their heads out by talking to the media.

At the same time, Mr Tung did not encourage—and sometimes discouraged—lower-level officials from explaining policy to journalists. Mr Tung left this task to policy secretaries or principal officials, to avoid potential embarrassment when comments deviated from official policy.

Such embarrassment was not rare. A vivid case in point was the scrapping of Mr Tung’s 1997 policy of building 85,000 flats a year. Mr Tung did not budge—even though developers were deeply unhappy that such a large number of flats was being produced during the economic downturn that followed the Asian financial crisis. That did not change until the chief executive told a select group of reporters three years after the handover that the policy had lapsed in 1998. He even pointed out—somewhat implausibly—that the termination of the policy was evident in the fact that it had not been mentioned for a few years.

Embarrassment arose because the then Secretary for Housing, Dominic Wong, was unable to answer questions from journalists—as he was apparently unaware that there had been a change of policy. However, government figures showed another story. Housing production remained at a high level: 83,000 flats in 1999, over 85,000 in the year 2000, and 96,000 in 2001.

GOVERNMENT EXERTS GREATER INFLUENCE OVER MEDIA

The January 2007 survey indicates that the current government is exerting greater influence over the media than its 1997 counterpart. A total of 46.2 percent of journalist respondents thought this was the case, compared with 21.8 percent who thought it was about the same. Just 6.2 percent thought today’s influence is less than 10 years before. The general public also feels the stronger influence of the government. More than half of public respondents

(53.7 percent) think that the press has been influenced more by the current government.

In response, the director of information services, Edward Yau, admitted that his staff maintained close liaison with media organisations. But he denied that they exerted undue influence over them. He said the Hong Kong media was “free and perfectly qualified to make their own judgements and assessments of information provided to them by any source.”

It is true that all governments want to influence the media to their advantage. Hong Kong is no exception. However, it is also true that government officials have been holding a greater number of briefings with journalists since the handover. These briefings may be for selected journalists only—those who are trusted by the government or friends with it—or they may be for a wider group of reporters who are selected by their editors. The ground rules also change. Many briefings are non-attributable: Journalists are only allowed to quote “sources”. In other cases, senior government officials can be named, but their words cannot be broadcast. These latter examples sometimes involve the announcement of new policies, which would normally be covered by an on-the-record press conference.

Veteran journalists say that pre-handover briefings were limited in scope. They focused largely on politics relating to Sino-British negotiations over different facets of Hong Kong’s future.

When Tung Chee-hwa became chief executive, briefings covered a wider range of topics. There were fewer briefings on political issues and far more on economic and social matters. Part of the change resulted from Hong Kong’s economic downturn. The introduction of a ministerial system in July 2002 also contributed to this trend, insofar as different policy secretaries came out to defend their policies or appeal for public support. The major political issue after 1997 was the question of how to achieve universal suffrage—an issue that neither the Chinese nor the Hong Kong governments wanted to raise actively.

Mr Tung’s successor, Donald Tsang, maintained this policy. However, in some respects he went further. He commented on human tragedies, including brutal attacks on a seven-year-old child (“Both men and god feel angry”) and Democratic Party legislator Albert Ho (“I will chase the suspect to the end of the world”). He also expressed sympathy for the plight of singer Gillian Chung, who was photographed backstage while she was changing clothes. Veteran journalists say that the Tsang administration is more articulate and successful in delivering its message to the public.

WINNERS AND LOSERS

Veteran journalists say the nature of government briefings remains similar regardless of who heads Hong Kong. The aim is to influence the media to take a line that is favourable to the government, actively expose negative information and direct it in a way that is less harmful to the government, send out trial balloons if the information is sensitive or controversial, and release information at the most propitious time for the government.

The prior disclosure of names on Donald Tsang’s list of ministers for his second term government vividly demonstrates the tactics at work. Days before Legislative Council discussion of a resolution on the new government structure, less controversial names were leaked to individual newspapers. “Sources” were quoted in these reports. On the day of the debate (June 14th 2007), three newspapers leaked more controversial names, including a prominent leftist, Tsang Tak-shing, who was then a consultant with the government’s Central Policy Unit. No single newspaper published more than one name, and each report again quoted “sources”. This was a clear trial

balloon—aimed at determining whether the community would react in a negative way.

A fuller name list was leaked following passage of the resolution. Nine newspapers, equivalent to half of the mainstream newspapers in Hong Kong, published almost identical information, apart from Tsang Tak-shing's post. This reflected the controversy surrounding his appointment, given his pro-Beijing background. In the end, Tsang Tak-shing was appointed to Donald Tsang's cabinet.

Apart from being a trial balloon, the gradual leaking of names allowed the public to digest the information and thus feel less surprised when the information was formally released. Further, since half of the newspapers in Hong Kong published the same name list, it showed that Donald Tsang was quite confident that his nominations would be approved by Beijing.

THE BIG LOSER

A journalist-turned-media consultant, Mau Chi-wang, points out that the machinery collapsed during Tung Chee-hwa's two terms as chief executive. Mr Mau said Mr Tung was neither interested in this game nor trusted the media. Even though traditional public relations methods—including press conferences, stand-ups and briefings—were used, Chris Yeung agreed that Mr Tung failed to get his message across.

The change in the way that policy was formulated also contributed to the failure of the briefing system. Several ministers were appointed from outside the civil service. They may not have been familiar with the way the bureaucracy works. Senior civil servants showed dissatisfaction on several occasions after reading about policy changes in newspapers. Without better coordination, it was difficult to press ahead with new policies.

Unfamiliarity with briefing techniques also led to problems. As veteran journalists know, selective briefings tend to involve a small circle of trusted journalists. On one occasion, Mr Tung's office invited representatives of six media organisations. With so many people involved, information about the briefing was leaked to others who had not been invited. They asked for the chance to participate, but were denied entry at the entrance to the briefing venue. The excluded media were so angry that they headlined the news. The HKJA condemned such selective briefings, saying they discriminated against more critical media organisations and their readers.

To avoid further embarrassment, Mr Tung started holding larger briefings. However, with so many journalists attending, it became more difficult for officials to deny what they had said behind closed doors. As a result, the information released became less useful to journalists.

In one case, there was a serious media backlash against such briefings. In 2001, the then Deputy Secretary for Housing, Chung Lai-kwok, leaked to the media the idea of exempting the payment of rents by public housing tenants on the condition that they had to pay rates and management fees. Since the total amount involved in rates and management fees was higher than the rents, public opinion came out strongly against the idea. When asked about the idea, the then Housing Secretary, Dominic Wong, denied the report. In a rare move, Asia Television (ATV) disclosed details of the incident, to make the point that they did not want to become the scapegoat for the release of immature policy ideas.

DONALD TSANG BECOMES THE WINNER

The current chief executive, Donald Tsang, and his core team meet daily to discuss issues reported in the media and follow-up action to minimise the impact of such stories. The practice was scrapped during Mr Tung's time as chief executive. With the strategic meeting, Donald Tsang has become much more adept at spinning the media, especially on timing. The leaking of the nomination list for his second term cabinet was one good example.

Before Mr Tsang became chief executive in 2005, briefings were attended mainly by reporters and editorial writers. Mr Tsang extended the participation list to columnists and programme controllers. Political commentator Ivan Choy, from the Chinese University, revealed that he and other opinion leaders were first invited to attend a briefing relating to Mr Tsang's first policy address in October 2005. Chris Yeung said some occasional columnists were also invited. The intention was clear: To influence the public via opinion leaders, whether it was through their columns or their interviews.

Before the 1997 handover, government officials would sometimes use briefings to sound out the views of journalists on controversial issues. However, Mr Tung changed tack. He used briefings as a lobbying tool. The process became relatively one-sided. Officials would not listen to the opinions or questions of participants and subsequently adjust their policies or strategies. The attempt to force through national security legislation in 2003 was the best example of this trend. The result: Almost one tenth of the entire Hong Kong population took to the streets and the bill was shelved.

Donald Tsang adopts greater flexibility in this regard. He basically adopts the one-way lobbying approach, but drops proposals if he encounters major obstacles. It was in this way that he dropped the original proposal to build a cultural district in West Kowloon. Instead, he set up an elaborate consultative mechanism to push the idea forward.

PLUSES FOR THE GOVERNMENT

Although the briefing system has several disadvantages, including denying access to consumers of excluded media organisations, it can be used as a tool to prompt the media to become less critical of government policies and viewpoints. For example, those who do not take a favourable line may not be invited to future briefings. Moreover, journalists may become scapegoats for leaked policy—and may risk their credibility—if government initiatives are later withdrawn.

Nevertheless, Chris Yeung from the South China Morning Post says journalists should attend. Instead, he says they should make the best use of briefings to get as much information as possible. He also says it is unwise for reporters to publish what sources say uncritically, without verification and thought. Otherwise, he says media organisations will become tools of the government, instead of monitors.

INTERNET NEWS BECOMES EVER MORE IMPORTANT

With the blossoming of the internet in the late 1990s, many media outlets have set up web pages or provide internet news. Even the Information Services Department has set up its own web page to provide interviews with government officials and to distribute government releases.

However, this does not mean greater diversity. Internet news is basically a by-product of the news sections of media outlets. Given manpower constraints, media organisations often copy and paste internet news from other electronic news media. It seems that internet news does not encourage more creative journalism. It encourages only instant news. As Pulitzer Prize winner and former *New York Times* executive editor Max Frankel said, the more newspapers pursue internet audiences, "the more will sex, sports, violence, and comedy

appear on their menus, slighting, if not altogether ignoring, the news of foreign wars or welfare reform.”

It goes without saying that the government keeps a close watch on internet news, in particular on-line news being put out by radio stations, which are generally first with breaking stories. According to a news editor who works for one radio station, government information officers sometimes call within 15 minutes to seek to correct stories or more often, to seek changes that put the government in a better light.

There have been cases where government officers have asked for the name of a particular department to go first in the report. They also sometimes ask for inclusion of government statements that have been repeated many times before. In one case in 2004, the press secretary for the then Permanent Education Secretary, Fanny Law, called media organisations, seeking changes to reports that Ms Law had said students were “the least qualified to criticise the government”. The press secretary was seeking changes that made Ms Law’s comments seem less offensive. Some media organisations complied with the request; others did not.

The former director of information services, Edward Yau, claims that they do not have dedicated staff to monitor internet news. However, he admits that they do generally keep track of public opinion on government policies and actions as expressed through various channels, and more information will be provided if they find reports do not reflect “the full background” of an issue. He further says it is entirely up to media organisations to decide if any follow-up action should be taken.

Although it is up to the media to decide whether certain “suggestions” from information officers should be adopted, this process exerts unreasonable pressure on frontline journalists and middle-ranking news managers, who do not want to jeopardise relations with officials or jeopardise the chance of a future interview.

INTERFERENCE FROM “WESTERN DISTRICT”

There is another source which has long been influencing the media—Beijing’s liaison office in Hong Kong. The HKJA documented how Chinese government officials exerted their influence on Hong Kong media organisations and journalists in its 1995 annual report. There has been little change since then, except that it has become more direct. Now, following the 1997 handover, certain social gatherings and meetings involving Chinese officials and media owners or editors no longer have to be held in the neighbouring Chinese city of Shenzhen.

After the handover, the central government’s liaison office was set up to take up the political role of the New China News Agency, the de facto Chinese representative office in Hong Kong before the handover. One of its roles is to influence the media.

Although the name has changed and the office has moved to Western district (hence its nickname), its role is largely the same: State the government line in unofficial gatherings with senior media managers, brief them on political issues, and make telephone calls to media organisations to express dissatisfaction with news reports. In certain cases, officials express dissatisfaction about interviews with personalities they dislike. Careful readers are able to note that pan-democratic legislators get less coverage in pro-Beijing newspapers and television stations.

While such intervention is difficult to pinpoint as it goes on behind the scenes, Chinese officials do sometimes stray across the line to give very public directions. The most notable case took place in April 2000, when a deputy

director of the liaison office, Wang Fengchao, warned Hong Kong journalists not to report views advocating independence for Taiwan. This came after Cable Television interviewed Taiwan's new vice-president, Annette Lu. (See 2000 annual report)

Such comments were a clear infringement of press freedom as enshrined in the Basic Law, and were a clear attempt to warn journalists to adopt Beijing's line on Taiwan independence. A signature campaign was launched in the wake of the warning. About 800 journalists signed to show that they rejected the call which, if followed, would have made Hong Kong media organizations propaganda machines for national Chinese policy.

The liaison office at the same time adopts a soft approach. To help bring the local media on board, it has organised tours to taste food and fruit on the mainland, and study tours to learn about Chinese policies. Media consultant Mau Chi-wang concludes that the liaison office helped the Tung administration a lot during the first seven years after the handover, and a number of media organisations now take more of a pro-Beijing stance than they did before 1997.

THE MISSING LINK: THE WESTERN WORLD

While government information officers have been working hard to persuade local publications and broadcasters to adopt the administration's thinking on issues, work on foreign correspondents reporting in Hong Kong has been neglected in recent years.

The number of overseas trips undertaken by the two post-handover chief executives may reflect—to a certain extent—how important the international community is perceived to be. According to government figures, Tung Chee-hwa embarked on 10 overseas duty trips and six visits to the mainland during his first three years in office. By contrast, Donald Tsang went on six overseas duty trips and 18 visits to the mainland in his first term, which lasted just over two years.

There are other differences. In the first few years of Mr Tung's first term, specific information officers were assigned to liaise with foreign journalists. However, a bureau chief of one of the most important news agencies in Hong Kong revealed that in the past five years, not a single officer from the Information Services Department or the Chief Executive's Office had contacted her.

The local English-language media have similar stories. A news editor with the *South China Morning Post* revealed that their reporters had not been invited to attend briefings as frequently as they had been before the handover. A senior editor with the English news service of Radio Television Hong Kong reported a similar trend—that government officials showed less interest than before 1997. Chris Yeung of the *South China Morning Post* points out that the decreasing importance of the English-language media reflects the fact that local issues have become more important, and that it is therefore far more important for the government to influence the Chinese-speaking community through the Chinese-language media. He also notes that the importance of Hong Kong news has declined in the overseas media over the past 10 years.

The lack of attention to the international media and local English-language services may also be linked to a significant drop in the number of people working for the government's Information Services Department—at a time when monitoring of the local media is growing.

TIME FOR MORE DIVERSIFIED SOURCES OF INFORMATION

The dominance of government information in the Hong Kong media is of great importance—largely because the territory does not practise multi-party politics. This means that most information is in the hands of the government. Without more diversified sources of information, the administration can easily control the flow of information. Indeed, 13.2 percent of journalists interviewed in the HKJA's January 2007 survey thought that the government's tighter grip on the flow of information was the second most significant reason for the deterioration of press freedom in Hong Kong.

It remains a central truth that democratic politics requires a democratisation of information sources and a more democratic media. In facing the limited number of sources of information in Hong Kong, grassroots movements and related groups that represent significant numbers of ordinary citizens have started putting more energy and money into creating and supporting their own media, including publications and internet sites. This may over time counter the influence of the government.

SECTION 5

Media owners shift towards Beijing

By freelance journalist Jackie Sam

Before July 1st 1997 the two descriptions most commonly applied worldwide to the Hong Kong media were “rambunctious” and “the freest in the world”. The world has moved on since; so has Hong Kong. In its worldwide survey for 2006—the latest—Reporters Without Borders ranked Hong Kong 58th, alongside Fiji, Poland and Romania. In 2002 it had been ranked 18th. In 2005 we slipped to 39th. The latest assessment by Freedom House, “Global Press Freedom 2007”, puts Hong Kong at number 66 in company with Chile, Namibia and South Korea. This is at the bottom of those countries ranked as having a free press. This downward trend looks set to continue, paralleling the significant shift towards Beijing and the rise in uniformity of views.

A section of the media has always shown a strong bias towards Beijing. In fact this was one of the strong points about Hong Kong through the post-war years, the Cold War and the transition towards the handover because there was also a strong counterpoise: a strident, some might even have called it a rabidly pro-Taiwan bias in the likes of *Sing Tao Daily News*. Right up to the eve of the Sino-British negotiations on Hong Kong’s future, the Beijing government remained “communist bandits” in the eyes of *Sing Tao* and others of its genre. In between the two was a broad, rich vein of independents with their occasional exposes of wrongdoing by government and the broadsheet “tabloids” totally irreverential towards the powers-that-be. All these publications could and did discuss freely everything under the sun, including independence for Hong Kong.

By the mid-1990s, with Hong Kong’s future sewn up and the Basic Law in place, the pro-Taiwan newspapers had pulled out and the rest veered off sharply to feed off Beijing’s hand.

There have been no edicts about what can or cannot be reported, discussed or pontificated upon. Every reporter, every editor just knows what should or should not be done. There is no discussion, publicly or otherwise.

This radical change has come about through changes in media ownership. Although some media changed hands before the handover, the really significant ones have been made after 1997. In a remarkable coincidence, the 10th anniversary of the handover has been marked by the sale of Hong Kong’s only “intellectual” newspaper, the *Economic Journal*, to Richard Li in a deal that raised questions about the government’s sincerity in controlling cross-media ownership.

Mr Li is the son of top tycoon Li Ka-shing, whose association with the central government is a byword in business circles. The younger Li is the largest shareholder of telecommunications giant PCCW, which also runs Now Broadband TV. Hong Kong laws bar cross-ownership of the media, but Mr Li insisted he was personally not the purchaser. The purchase was made, allegedly, in the name of a trust fund and the younger Li assured the public he would not intervene in the running of the *Economic Journal*. It should be noted that the older Li also owns Metro Radio. An outcry against possible infringement of the Telecommunications Ordinance erupted and the government promised to look into the purchase. Few people, however, are keeping their fingers crossed. There is also little expectation that the ordinance would be tightened to prevent further exploitation of this or any other loophole.

There is more than a faint suspicion that the sales of newspapers have been

encouraged by forces highly sympathetic to Beijing. From the time that Hong Kong's future became a public issue, key media entities like the *South China Morning Post*, *Ming Pao*, ATV, the Sing Tao Group (which includes the only other English-language newspaper, the Standard) and other lesser lights, have changed hands.

Even more astounding is the way Beijing has opened a new path to a capitalist nirvana for the "new" generation of media barons, men like Robert Kuok (*South China Morning Post*) and Charles Ho of the Sing Tao Group. One is now big-time in properties and logistics in mainland China; the other a key player in Beijing's efforts to reach the Chinese diaspora worldwide through the media.

Media ownership is not an end in itself. Hence the sheer nonchalance with which some minor tycoons have picked up media outfits with seemingly little hope of breaking even. And there have been other goodies available for media owners: increasing opportunities to rub shoulders with the high and mighty; appointments to provincial or national bodies (in turn leading to more opportunities in other areas); appointments to statutory bodies in Hong Kong, as well as honours from the Hong Kong Government. Even popular mass newspapers have become more sympathetic to Beijing and quite a few owners have been honoured by Beijing—including with membership of the National People's Congress (NPC), China's parliament, and the Chinese People's Political Consultative Conference (CPPCC), the top advisory body at the national level. Among these media owners or top executives are: Ma Ching-kwan of the Oriental Press Group; Charles Ho Tsu-Kwok of the Sing Tao group; Lee Cho-jat of Sino United Press (owner of the *Hong Kong Commercial Daily*); Wang Guohua of the *Ta Kung Pao*; and Zhang Guo-liang of the *Wen Wei Po*.

Electronic media organisations are influential in Hong Kong. Five out of eight media owners are members of the National People's Congress and the Chinese People's Political Consultative Conference. These owners include Chan Wing-kee, shareholder and executive director of Asia Television; Sir Run Run Shaw, executive chairman of Television Broadcasts Limited; Peter Woo of the Wheelock group, which owns Cable TV; Li Ka-shing, chairman of Cheung Kong (Holdings) and Hutchison Whampoa which own Metro Broadcast Corporation; and Richard Li, younger son of Li Ka-shing, owns PCCW which runs NOW Broadband TV.

The owners of four major newspapers—the *South China Morning Post*, *Ming Pao Daily News*, *Hong Kong Economic Times* and *Sing Pao Daily News*—are close friends of Chinese leaders. Some of these owners cannot be appointed to either national or provincial legislatures because they are overseas Chinese.

A further incentive to playing ball with Beijing is the award of Hong Kong honours to media owners. Since the handover, the Gold Bauhinia Star has been awarded to Cable TV's Peter Woo and ATV's Chan Wing-kee, while the Silver Bauhinia Star went to Lee Cho-jat, who chairs the Newspaper Society of Hong Kong. A more direct example of incorporation is the award of honours to newspaper managers—May Chan of Commercial Radio in the year 2000 and Lo Wing-hung of *Sing Tao Daily News* in 2004.

In themselves ownership changes are not unusual; they happen all over the world. However, in the case of Hong Kong, they seem to have erupted suddenly with the advent of its transfer to China. But there is no exception to the Rupert Murdoch quality that runs through these changes in ownership. The ownership transfers are followed by lay-offs, ostensibly to cut costs. Almost invariably it is the experienced journalists who have been the first to go. Fresh graduates are recruited; it is no longer unusual to come across editors with no more than four or five years' experience in journalism, such period being also their entire working life up to the time of appointment. This, in turn, has led to a certain

shallowness in news reporting and in commentaries on social, political and economic issues. At the same time there has emerged a tiny coterie of tokens, journalists encouraged to criticise fiercely both the Hong Kong administration and the Central Government from media vehicles that are too limited in scope to warrant attention by the general public. But they do provide the necessary window-dressing for a make-believe democratic system.

The one great exception is the Next Media Group of Jimmy Lai, which publishes the *Apple Daily*, the second largest circulating newspaper in Hong Kong. It has remained fearless in expressing its views since its launch in the mid-1990s.

Its contrary views, however, come at an extraordinary price. There is a total advertising boycott by all the businesses that matter in Hong Kong. In a city essentially run by an oligarch of less than a dozen tycoons, this is an extremely serious threat to press freedom. The group is saved only by Hong Kong people's strong commitment to a democratic system and a free, independent media.

Conformity is also being encouraged by the administration as well as by the Central Government through selective briefings on major issues, such as plans for a goods and services tax which was subsequently aborted, and selective leakage of information to Beijing-friendly newspapers, including the line-up of the new administration following the re-election of the Chief Executive, Donald Tsang, in 2007.

Such behaviour by the two governments has ensured that editors not only conform, but also see to it that their staff show utmost consideration towards the Hong Kong administration and the central authorities at all times. Under the circumstances, journalists are compelled to indulge in self-censorship.

According to a survey conducted by the Hong Kong Journalists Association (HKJA) last January, 58.4 percent of journalists think press freedom in Hong Kong has deteriorated since the handover, mainly as a result of self-censorship. About 60 percent of the journalists interviewed believe that self-censorship is more serious now than 10 years ago. Some 30 percent of the journalists admitted they had practised self-censorship; 40 percent knew of colleagues who had done so. These figures are already alarming and worrying. Given that self-censorship is held to be a socially undesirable act, these figures may only be the tip of the iceberg.

A sense of disquiet is widespread and many practitioners no longer look on journalism as a lifetime career but only as a stepping stone to more materially rewarding careers. Successive surveys since the handover have shown a steady decline in the social and professional standing of working journalists. The situation is also reflected in the less intensive pursuit of news that may offend or pique the powers that be. In-depth coverage of any sensitive issue is non-existent. What passes for "serious" coverage is, generally, superficial and almost always scripted in a way that is non-controversial.

That, perhaps, is the culmination of the administration's quest for harmony in our city.

SECTION 6

Law reform pleas fall on deaf ears

Before the 1997 handover, the Hong Kong Journalists Association (HKJA) was involved in a campaign to scrap or amend laws that threatened freedom of expression and press freedom. It was successful in prompting the colonial government to repeal draconian laws, including the Control of Publications Consolidation Ordinance. It was also partially successful in pressing the government to scrap dangerous provisions in several laws, including the Television Ordinance.

This process has halted since 1997. Neither the government of the first chief executive, Tung Chee-hwa, nor that of his successor, Donald Tsang, has been sympathetic to HKJA calls for reform. This has been most noticeable in the year under review in debates over covert surveillance and the search and seizure of journalistic material. It has also been evident in debate over whether restrictive new privacy legislation should be introduced.

GOVERNMENT RESURRECTS PROSPECT OF TOUGHER PRIVACY LAWS

The chief executive, Donald Tsang, raised the prospect of tougher privacy and indecency laws, in the wake of controversy over the publication of photographs of a prominent pop star changing in a dressing room in Malaysia. The photographs were published in the *Easy Finder* entertainment magazine in August 2006. It caused a storm of opposition from the entertainment industry and women's groups and an "indecency" ruling by a government tribunal, which received a record 2,875 complaints about the photos.

The photographs of Twins star Gillian Chung were criticised on two fronts—that they were indecent and that they were taken without the permission or the awareness of the singer.

A three-member panel under the Obscene Articles Tribunal classified the photos as "indecent", which means the publication should be sold only to those aged over 18. The magazine appealed, but the full tribunal upheld the ruling.

The tribunal argued that the text and photographs had to be taken together. It said the photos were presented with text that was "extremely detailed, graphic and provocative" and meant to be sexually arousing and pornographic. The senior counsel for the magazine, Gerard McCoy, had argued that no part of the singer's breast was visible in the photographs, except possibly an upper quarter. He also noted that the pictures were long-range, grainy and blurry.

The government said it would prosecute *Easy Finder* over the incident. If convicted, the publisher could face up to one year in prison and a fine of HK\$800,000. This is double the normal penalty, because the magazine has already been convicted on 14 previous occasions.

Representatives of the entertainment industry staged a protest, as did women's groups, shortly after publication of the photos. And the star at the centre of the controversy obtained an interim injunction preventing further publication.

The reaction of the government was interesting. In late August, the chief executive, Donald Tsang, waded into the controversy, saying that the administration would use Law Reform Commission proposals to better protect privacy as the basis for considering new measures to curb media intrusion. Mr Tsang said: "On the one hand, we have to preserve press freedom, and on the other we have to ensure that personal privacy is not infringed upon."

The Law Reform Commission is proposing a number of new offences, including

a bar on private individuals from conducting any covert surveillance, the creation of a statutory press council to handle complaints about media intrusion and the creation of two new civil torts—intrusion on the “solitude or seclusion” of others and the making of “seriously offensive or objectionable” publicity about others. The commission has also proposed tough new laws on stalking.

In January 2007, the government said it would study overseas models before deciding the way forward. A government source was quoted as saying: “There are some very polarised views between the media industry and the community on whether tougher measures should be introduced in Hong Kong to protect individual privacy. We need to strike a good balance between privacy and press freedom.” No progress has been announced since then.

The HKJA and other media organisations have urged the government not to rush into enacting new laws, given that they could have a significant impact on the ability of journalists to do their job. The HKJA highlighted in its 2005 annual report the chilling effect the new laws could have—in particular on investigative journalism.

The government has also signalled that it may resurrect draconian proposals to impose tighter restrictions on the publication of obscene and indecent material. The commerce secretary, Joseph Wong, told legislators in October 2006 that the government may revive proposals that would see newspapers with sexual content having a prominent red line printed across the page to warn off minors.

The proposals were shelved in the year 2004 amid opposition from the media, including the HKJA, as well as some political parties. Again, nothing further has emerged about the revival of such proposals, which like the privacy proposals could have a considerable impact on freedom of expression.

LEGISLATORS ENDORSE CONTROVERSIAL INTERCEPTION LAW

On August 6th 2006, legislators endorsed a controversial bill giving legal authority to law enforcement officers to carry out interception of communications and covert surveillance. The government had brought forward the bill after courts had declared that the government’s previous powers had no legal basis. This included use of a provision—section 33—in the Telecommunication Ordinance and an executive order issued by the chief executive, Donald Tsang, in August 2005 setting out temporary powers. The Court of First Instance gave the government until August 8th 2006 to plug the legal gap. Legislators passed the law with just two days remaining.

The law’s passage was not easy. Critics alleged that the draft law had been put together hastily and failed to give adequate protection to journalists and lawyers. Under the law, a panel of specially chosen Court of First Instance judges will approve all applications for interception of communications and for more intrusive forms of covert surveillance. Senior law enforcement officers will give approval for less intrusive forms of covert surveillance.

The HKJA expressed concern that the law failed to give adequate protection to journalists, who may be asked to pass on confidential journalistic material or to reveal sources of information. It called on the government either to exclude confidential information from the scope of the bill or impose higher thresholds before any intercepts can be permitted. The HKJA also argued that the law should set out proper safeguards for confidential information, to ensure that it cannot be used to obtain information that may enable the authorities to determine a journalist’s source of information. The government rejected these calls.

The law was finally passed by 32 votes to none, after five days of debate and

after pro-democracy legislators walked out of the chamber. They were angry that all their 200 amendments were blocked by a pro-government majority, including a sunset clause that would have required the government to re-authorise the bill for any new covert surveillance warrants to be issued after August 2008. The government instead pledged a review of the law in mid-2009.

The secretary for security, Ambrose Lee, said the bill was “a good balance between effective law enforcement on the one hand and the protection of privacy on the other.” Democratic Party legislator James To said it gave the police and the chief executive too much discretion. The HKJA expressed disappointment over the passage of the law, saying it would jeopardise the ability of journalists to keep their sources confidential.

There was a further twist in July 2006—less than one month before the expiry of the August 8th deadline set by the Court of First Instance. The Court of Final Appeal allowed an appeal by legislator Leung Kwok-hung and fellow activist Koo Sze-yiu against the decision to allow temporary validity to covert surveillance operations. Instead, the SAR’s highest court suspended the effect of the original Court of First Instance ruling. This effectively meant no change for the government, except that affected parties would be able to take the government to court if they felt aggrieved over surveillance action.

GOVERNMENT REJECTS CHANGES TO SEIZURE LAW

There was disappointment on another law reform front. In January 2006, legislators conceded defeat in their efforts to strengthen protection for media organisations and journalists who face seizure of journalistic material by law enforcement officers. The chairman of a Legislative Council sub-committee examining search and seizure powers, James To, said members could not reach consensus on the issue.

The sub-committee was set up after police officers raided seven newspapers and the homes and offices of several journalists. The raids were related to an Independent Commission Against Corruption (ICAC) investigation into alleged share manipulation involving a listed company, Semtech International Holdings. Two lawyers and two business people were jailed in connection with the case. Barrister Kevin Egan was sent to prison for attempting to disclose the name of a participant in an ICAC witness protection programme to a journalist with the South China Morning Post. Mr Egan remains on bail pending an appeal.

The HKJA had called for part XII of the Interpretation and General Clauses Ordinance, which covers search and seizure of journalistic material, to be strengthened. In particular, it urged the government to give greater protection to confidential journalistic material and for searches to take place only in exceptional circumstances.

The government agreed only to issue internal guidelines laying out the requirements for court applications. Under the proposal, all applications would be lodged with the district court, except for cases involving serious corruption or “utmost sensitivity”. These cases would be channelled to a higher court. The HKJA said the proposal failed to meet its concerns about police access to confidential journalistic material.

LEGCO PRESIDENT RESTRICTS FREEDOM OF EXPRESSION

A controversy erupted in May 2007 over the wording of a Legislative Council motion on the suppression of the pro-democracy movement in China in June 1989. Pro-democracy legislator Leung Kwok-hung put forward a strongly worded motion that called for the council to condemn “the prime culprit of the bloody crackdown on the pro-democracy movement in 1989”. It also

called on Beijing to investigate the “4 June massacre”, release political prisoners and end “one-party dictatorship” in mainland China.

The Legislative Council’s president, Rita Fan, objected to the wording. She said the motion could not go forward as it stood, as it contained “accusatory expressions or expressions of condemnation against the CPG.” (Central People’s Government in Beijing) She also said the council could not urge Beijing to call for an end to the one-country system, as this would be contrary to the Chinese constitution.

Interestingly, Mrs Fan also expressed concern about the use of the term “massacre” in the motion, saying that the word “incident” had been used in previous motions before the Legislative Council. The word “massacre” was used for several years after 1989. But it was largely phased out in later years, in a move to sanitise the bloody events of June 3rd and 4th 1989. This was particularly evident in media publications.

Mr Leung objected to milder wording proposed by Mrs Fan—and therefore decided to withdraw his motion. However, a debate proceeded at the end of May—just five days before the 18th anniversary of the Beijing massacre. Former Democratic Party chairman, Martin Lee, proposed that “the June 4 incident not be forgotten and the 1989 pro-democracy movement be vindicated.” It was defeated with the help of pro-government and pro-Beijing legislators—just as it has every year since the 1997 handover.

Mr Leung was angry about Mrs Fan’s decision, saying “her reasoning that the legislature cannot accuse the executive defies all the principles of a free society.” Civic Party legislator Ronny Tong said the ruling would have a negative effect on the legislature’s image.

This was not the first time that Mrs Fan had vetoed a critical motion. In 2004 she ruled against a motion condemning the Standing Committee of the National People’s Congress (NPC) for blocking full democracy in 2007 and 2008. Mrs Fan is herself an NPC member, and is tipped to join the Standing Committee in 2008.

ACADEMIC FREEDOM ISSUES SURFACE AGAIN

In June 2007, a commission of inquiry issued a damning report criticising a former senior government education official, Fanny Law, for interfering improperly with the academic freedom of two academics at the Hong Kong Institute of Education. The controversy broke in early 2007, when the institute’s then vice-president, Bernard Luk, alleged that the government was exerting pressure on the institute to merge with another institution, the Chinese University, and that a senior official (Ms Law) had called for the sacking of four academics for criticising education reforms.

The dispute was exacerbated when the institute’s council refused to renew the contract of its president, Paul Morris, who had opposed a merger. Instead, he wanted the institute to become a university in its own right.

In March 2007, the chief executive, Donald Tsang, set up a two-member review commission headed by a judge, Mr Justice Woo. But Mr Woo was forced to step down because he had a working relationship with Ms Law. Another judge, Mr Justice Yeung, replaced him.

The hearing took evidence from professors Morris and Luk, as well as the education secretary Arthur Li and Ms Law, who at the time of the dispute was the government’s permanent secretary for education. The commission found that no concerted effort was made to force the institute into a merger and that there was insufficient evidence to show any improper interference by Professor Li or other government officials with the institute’s autonomy. However, it

found that Ms Law had improperly interfered with the academic freedom of two academics. Ms Law subsequently resigned as head of the Independent Commission Against Corruption.

The significance of the case is that academics felt that their freedom of expression was being threatened by the actions of senior government officials. One academic, Victor Lai, said: "Limits on freedom of speech have become intolerable." However, the Education and Manpower Bureau said it respected academic freedom and had never intervened in the institute's personnel matters. It said: "The serious allegation is untrue and regrettable."

On academic freedom, the commission asserted that views should not be suppressed, even if they are unpleasant or erroneous. It linked academic freedom to the wider concept of freedom of expression, noting that the pursuit of educational, scholarly and research excellence must be respected. Otherwise, it said, "neither scholars nor students would be able to flourish or achieve the ends that academic freedom is intended to serve."

There was an ironic twist to the story on the day that the commission's report was released. The institute removed Professor Luk's allegations from its website and imposed additional conditions for posting articles to preserve the institution against "third party claims of liability". This move was criticised for impinging on freedom of speech.

The controversy blew up seven years after the University of Hong Kong was embroiled in a dispute over academic freedom. That incident—which came to light in July 2000—centred on allegations that a senior government official had tried to gag a university pollster. The institution set up a three-member inquiry panel, which found that two professors had tried to put a stop to the polls. The two professors resigned shortly afterwards. It also found—without substantiating the gag allegations—that the senior official, Andrew Lo, was a "poor and untruthful witness." The pollster, Robert Chung, continues to carry out opinion surveys.

CHINESE UNIVERSITY STUDENTS WALK INTO INDECENCY STORM

A freedom of expression controversy impinged on another academic institution during the year under review. In May 2007, the Obscene Articles Tribunal ruled that two editions of a Chinese University student publication were indecent, which means they were unsuitable for youngsters. The articles related to a sex survey, which asked student respondents questions including whether they had ever fantasized about having sex with siblings and animals.

The controversy arose three months after publication—and following several media reports about the survey. The editors of the student publication defended the sex columns, on the grounds of freedom of expression. One editor, Lau Ming-wai, said: "Many people here (the university) are angry because this is an attack on freedom of speech and freedom of publishing." The university appeared to disagree. It issued warning letters to some of those involved—a move which prompted outrage among student groups.

But it was the decision by the Obscene Articles Tribunal to classify the two editions as indecent which created the greatest storm. This followed the submission of 225 complaints about the survey to the Television and Entertainment Licensing Authority. Those involved in publishing the student newspapers could now face prosecution—meaning they could be jailed for up to one year and be fined as much as HK\$400,000. The contentious sex survey was dropped from the May issue of the student journal. However, a related sex column was retained.

The indecency ruling prompted a counter-attack on an anonymous website

called “truthbible.net”. It urged people to submit complaints about what it claimed was indecent material in the Bible. More than 2,300 complaints were submitted, but the authorities decided not to submit the Bible to the Obscene Articles Tribunal because they considered the book to be “a religious text which is part of civilisation”.

Some critics mocked this rationale. Others suggested that the counter-attack had been launched because a religious group might have been involved in the complaints about the student publication. Critics also questioned whether the Obscene Articles Tribunal was out of touch with prevailing opinions in Hong Kong, which are more liberal than in the past. They also pointed to several dubious rulings, including one that classified Michelangelo’s statue, David, as indecent because it showed the figure’s genitals.

However, obscenity cases received a more sympathetic hearing in the courts. *Easy Finder* magazine became the first publication to be charged under the Protection of Child Pornography Ordinance. The case centred around photographs of a female singer wearing a wet T-shirt when she was 14.

The magistrate who heard the case, Gary Lam, ruled in April 2007 that *Easy Finder* was not guilty of publishing child pornography. He pointed out that the pictures were taken with the consent of the girl’s mother and that she was wearing a flesh-coloured bra during the photo shoot. The government—in another apparent attempt to impose its own indecency values—has lodged an appeal against the ruling.

PCCW CHAIRMAN BUYS INTO HONG KONG ECONOMIC JOURNAL

In August 2006, it was announced that a trust company owned by PCCW chairman Richard Li had agreed to buy a 50 percent stake in the SAR’s oldest business newspaper, the Hong Kong Economic Journal. The HK\$280 million purchase is significant because the Economic Journal is one of only a few newspapers that are not owned by big businessmen with strong China links. The newspaper has also not been faring well in an increasingly competitive media environment.

One of the shareholders in the newspaper, Cho Chi-ming, said the deal had taken a long time because “we were discussing how to keep the paper’s editorial independence intact”. He added that he and a major shareholder, Lok Yau-mui, would continue to take charge of editorial decision-making. Mr Cho also said that the publication’s 200 staff would be retained—and there might actually be new hirings.

The newspaper was founded in 1973 and rapidly developed a reputation for independent reporting and thinking. But more recently, some media analysts have questioned whether the newspaper’s editorial stance is shifting—a position denied by management. However, on the day that the sale was announced, Democratic Party legislator Andrew Cheng said: “My only concern is that freedom of speech and press freedom will give way to political and other business considerations.”

This was not the only concern about the sale. There were also cross-media ownership issues. A PCCW subsidiary, PCCW Media, owns a domestic pay television service called NOW Broadband. This raises questions whether Mr Li can at the same time own a controlling stake in a newspaper. Mr Li denied this would be the case, as he was making the purchase through his trust, Clermont Media.

Initially, it would appear that Mr Li would get round this problem by selling his 23.6 percent stake in PCCW to a consortium led by former investment banker Francis Leung. This would mean that Mr Li would no longer be involved with NOW Broadband. But that deal required approval from a Singapore-based

company, Pacific Century Regional Developments. Minority shareholders voted down the move at a special meeting in Singapore.

The failure of Richard Li to obtain approval for the Francis Leung takeover prompted the Broadcasting Authority—in January 2007—to order PCCW Media to provide information about its voting controllers, as well as Mr Li's involvement in the firm and the *Hong Kong Economic Journal*. The move is clearly aimed at determining whether cross-media ownership rules have been breached. If they have, Mr Li would have to pull out of one of the media organisations or seek an exemption from the Executive Council.

There were no further developments at press time.

SING PAO'S WOES CONTINUE

Another newspaper that has been facing difficulties over the past year has been Sing Pao Daily News. In January 2007, a magistrate, Joseph To, fined the newspaper a mere HK\$4,200 for withholding HK\$81,000 in wages from three employees. Following an outcry from journalists and unionists, the magistrate agreed to review the penalty. One month later, he announced that he had made a mistake, but upheld the original verdict and penalty.

Mr To said he had erred in not seeking more evidence about a management reshuffle, which he said had disrupted daily operations. The magistrate heard that most of the newspaper's accounting and human resource records were either mislaid, in chaos or missing. Mr To said this made the case different from that of an average offender. The HKJA and journalists at the newspaper said they could not accept such excuses for non-payment of wages.

In May 2007, another magistrate fined the newspaper HK\$26,000 for failing to pay on time HK\$320,000 in wages and annual leave pay to its former chief executive, Lin Ning. The newspaper's current management paid the due amount, but more than a year after the payment should have been made.

Non-payment of wages and mandatory provident fund payments has been a feature at the newspaper since mid-2004—after mainland interests took over the publication. Indeed, in April 2006, more than 20 journalists, including a senior editor, called in sick in protest against non-payments. In July 2006, the High Court ordered Sing Pao to pay almost \$1.4 million in provident fund payments for about 370 employees.

In May 2007, the Mandatory Provident Fund Authority sued the newspaper for HK\$870,000 in unpaid contributions between October 2006 and January 2007. It also laid criminal charges against the company, which pleaded not guilty. The case will go to trial in July 2007. The owners of Sing Pao could be fined HK\$100,000 and jailed for six months.

The HKJA chairperson Serenade Woo called the Sing Pao case “one of the worst examples in recent years for the local industry.”

NEW OWNERSHIP MOVES AT ATV

In June 2007, the Executive Council gave the go-ahead for a major ownership revamp at one of Hong Kong's two free-to-air television companies, Asia Television (ATV). The deal involved companies linked with property developer Payson Cha taking a 58 percent stake in the TV broadcaster. A firm linked with the mainland state-owned CITIC group will take a 15 percent stake, leaving the previous majority shareholders—Chan Wing-kee and Liu Changle—with a stake of just 27 percent.

The deal required approval from the Executive Council and the Broadcasting Authority (BA) on two fronts. Six individuals—including Mr Cha—were considered to be disqualified persons because they were involved in other media

operations, including some on the mainland. But the Executive Council ruled that the media operations did not exert much influence in Hong Kong—and approval would not pose any risk of media concentration or editorial uniformity.

Further, the BA issued a waiver over the CITIC group's acquisition of a 15 percent stake. This was necessary because the purchase did not involve Hong Kong residents. However, the authority argued that the CITIC group could bring in much needed investment to a company that had been struggling for many years, and the mainland group had pledged to uphold the station's freedom of expression and editorial independence.

Critics, though, were not satisfied. Frontier legislator Emily Lau expressed concern that a mainland state enterprise would become a shareholder of a major media organisation in Hong Kong. However, media analysts noted that the broadcaster had already taken on a pro-Beijing slant. ATV has previously had to seek approval—in one case retrospectively—for ownership changes. In July 2006, the Broadcasting Authority fined ATV HK\$250,000 for allowing nine disqualified persons to exercise control over the broadcaster without Executive Council approval for a five-year period from July 2000. They were considered to be disqualified because of their association with a publication called *Phoenix Weekly Magazine*.

The move came two months after the Executive Council approved the status of the disqualified persons—who included both Liu Changle and Chan Wing-kee—from June 2005. The waiver was unusual because it came fully six years after breaches started. It followed several instances in which exemptions were granted to both ATV and its major rival, TVB, in circumstances that raised questions about whether the government was interpreting regulations too loosely.

HONG KONG JOURNALISTS ASSOCIATION

The Hong Kong Journalists Association (HKJA) is the only industry-wide union of journalists in Hong Kong.

The HKJA promotes the right to freedom of expression and actively focuses on a range of press freedom and ethics concerns. As a trade union, the HKJA focuses on labour rights, pay issues, health and safety, and training.

Executive Committee (2007-08)

Lo King-wah, chairperson; Fan Ho-tsai, vice-chairperson; Kenny Coyle, Jackie Sam, Ho Fu-yee, Don Gasper, Tan Ee-lyn, Ben Kwok, Stanley Leung, Tai Wai-land

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