

# THE AMERICAN CHAMBER OF COMMERCE IN HONG KONG

## Fact Sheet

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### Proposed Press Council

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**What is a press council?** A press council is either an independent or statutory body that regulates the content of newspapers, television, radio or other forms of media. An independent council relies on an internal solution within the media industry, while a statutory body consists of government appointed members charged with upholding government enforced codes of conduct.

**What is Hong Kong's current method of regulating the media?** To date, the SAR does not have either form of press council. All media within Hong Kong work freely under Article 27 of the Basic Law of the Hong Kong Special Administrative Region. The article states, "Hong Kong residents shall have freedom of speech, of the press and publication; freedom of association, of assembly, of procession and of demonstration...". Radio and television broadcasts are bound by the Codes of Practice on Program Standards first issued by the Broadcasting Authority in 1987. Currently, there is no such body that is serving as a watchdog of newspaper content.

**What is the recent proposal for a press council?** In August, the Law Reform Commission, through its sub-committee on privacy, published a consultation paper on the regulation of media intrusion.<sup>1</sup> The sub-committee proposed two major additions to government involvement in the media. The first recommendation calls for the Broadcasting Authority to adopt in its Codes of Practice on Program Standards, provisions relating to:

- a. unwarranted invasion of privacy in programs broadcast in Hong Kong, and
- b. unwarranted invasion of privacy in connection with the obtaining of material for inclusion in such programs.

The second major recommendation, which covers the regulation of newspapers and magazines, calls for the creation of a statutory press council. The Commission recommended the body consist of government appointed Council members charged with the following duties:

- a. to hold newspaper proprietors, publishers and editors responsible for breaches of the Privacy Code, issued by the Privacy Commissioner for Personal Data
- b. to initiate its own investigations if the Council has reasonable grounds to believe that an act is a breach of the Privacy Code
- c. to receive complaints of alleged breaches of the Privacy Code and to investigate accordingly
- d. to require a newspaper to publish an apology, correction or summary of the complaint if found in breach of the Privacy Code.
- e. to impose fines of up to \$1,000,000 on newspapers which are found to be in serious breach of the Privacy Code.

**What impact would the proposed press council have on Hong Kong's media?** The changes to broadcast media would be minimal since the Commission's recommendation is simply adding to the existing codes upheld by the Broadcasting Authority. However, the impact on newspapers and magazines would be significant due to the addition of an entirely new statutory press council. Newspapers' proprietors, editors and reporters would be subject to the decisions of the government appointed Council members. The Commission would have the authority to summon a perceived offender, hear their case without requiring the presence of legal counsel, and make a decision on whether to take them to court and/or impose a fine. This recommendation is the main cause for recent public concern, regarding freedom of press and freedom of speech. Implementation of such a

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<sup>1</sup> Consultation Paper on the Regulation of Media Intrusion website: [www.info.gov.hk/info/media-e.doc](http://www.info.gov.hk/info/media-e.doc).

proposal would impact negatively on the SAR's international image as a free and open society, by furthering the perception that Hong Kong is losing its autonomy, and denting business confidence.

**What initiated the current debate about the Hong Kong press?** Complaints about the intrusion of media have risen sharply in the last three years. In a *Hong Kong Standard* article, Privacy Commissioner Stephen Lau said he has received many complaints against media organizations for alleged violation of privacy.<sup>2</sup> Within the consultation paper, the privacy sub-committee cites a 1999 Society for Truth and Light opinion poll which found that four of the best-selling newspapers, *Apple Daily*, *Oriental Daily*, *Oriental Daily News* and the *Sun* scored the highest points in both the Improper Reportage Index and the Inaccuracy Index. Some other polls suggest the portrayal of sex, violence and indecency, as well as invasion of privacy, has increased significantly due to growing competition for readers.

**How do other countries balance freedom of press with freedom of privacy?** The sub-committee refers to the Code of Fairness and Privacy adopted by the Broadcasting Standards Commission in the UK for examples regarding its broadcasting recommendations. With regard to the second major recommendation for a press council, the sub-committee refers to the Code of Practice used by the independent British Press Complaints Commission. Other national press councils were examined due to their precedence in regulation included mostly voluntary organizations in Canada, Germany, New Zealand, Peru, Sweden, Taiwan and the U.S. The U.S. also has laws built into its system that provide some avenues of recourse for individuals and organizations that have been unfairly represented in the press. With the absence of government as a watchdog, recourse is almost exclusively taken within the courts. These specific laws are not present in the SAR's Basic Law. The same sub-committee simultaneously issued another consultation paper titled "Civil Liability of Invasion of Privacy," which recommends that similar tactics be taken in Hong Kong.

**An example of an independent press council: Minnesota News Council** This state-wide council formed through an experiment in 1970 aimed at creating a forum for the public to express its views on press standards. Today, the Minnesota News Council receives and adjudicates on complaints, holds open hearings and organizes public meetings in order to give the Minnesota public a clear opportunity to voice its opinion. More than 300 newspapers and three television stations cooperate with the council, as well as help to fund its operation. The Council is completely independent of the government. Its membership is made up of twelve journalism professionals, twelve other professionals and one chairman. In its mission, the Council says, "We believe that in order for the News Council to maintain its impartiality, the Council must remain independent of government and must seek and sustain broad-based financial support."<sup>3</sup>

**What is an alternative to the proposed press council?** Four Hong Kong journalists' associations have vowed to raise journalism ethics to a higher standard. The Hong Kong Journalists' Association, Hong Kong News Executives Association, Hong Kong Federation of Journalists and Hong Kong Press Photographers Association have agreed to work together in order to establish some form of independent ethics standards. In an *Asian Wall Street Journal* article, Mak Yin-ting, president of the Hong Kong Journalists Association said, "We're not opposed in principle to the idea of a press council. However, press councils in other countries have the benefit of full democracy. We lack that kind of scrutiny here."<sup>4</sup> The Chief Executive and the chairman of the Law Reform Commission sub-committee on privacy, have openly expressed their desire for the press to regulate itself.

**What is AmCham's position on this issue?** AmCham believes that adoption of the proposed form of press council would significantly diminish Hong Kong's currently favorable international

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<sup>2</sup> Patsy Moy, "Lau Backs proposal to protect privacy" *Hong Kong Standard* 14 Sept. 1999.

<sup>3</sup> Minnesota News Council web site: <http://www.mtn.org/~newsncnl/>

<sup>4</sup> Thom Beal, "Worries over Hong Kong press freedom heighten" *Asian Wall Street Journal* 21 Oct. 1999.

reputation for permitting freedom of speech and the free flow of information -- an important competitive advantage for Hong Kong. We are opposed to the establishment of the proposed Press Council. We recommend establishment of a self-regulating media body instead.