

2022 Chief Executive Election

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A. Definition of Election Advertisements

Q1. What is an election advertisement?

A1. An election advertisement means:

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

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

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Q2. Will the work reports published by candidates who are serving council members or rural representatives be regarded as election advertisements?

A2. Under section 86(4) of the Electoral Procedure (Chief Executive Election) Regulation (Cap. 541J), a document published by a candidate during an election period that gives details of the work done by the candidate in the capacity of the Chief Executive, a member of the Legislative Council, a member of Election Committee, a member of the a District Council, a member of the Heung Yee Kuk, the Chairman or Vice-Chairman or a member of the Executive Committee of a Rural Committee within the meaning of section 3(3)(a) of the Heung Yee Kuk Ordinance (Cap. 1097), or a Rural Representative, is also regarded as an election advertisement.

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

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

A3. An election advertisement means any publication published for the purpose of promoting or prejudicing the election of a candidate or candidates at the election. Any thing or material published by any organization (including political organization, professional or trade organization, owners' corporation, mutual aid committee, tenants' association, owners' committee, etc.) which advertises its political platform or services **with reference to a candidate** (irrespective of whether the candidate concerned is its office-bearer or member of that organization) by name, photograph or other information during or even before the election period may be regarded as election advertisement put up by, or on behalf of, or on account of, the candidate. The expenses of advertisement may be regarded as election expenses incurred by or on behalf of the candidate. It is therefore a prudent step for the relevant organizations to suspend such advertising activities. However, if the material published by the organization concerned (as opposed to by the candidate himself/herself) advertises only a particular activity, which:

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

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

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Q4. Will publicity materials published before a person is nominated as a candidate or publicly declares his/her intention to stand at the election be treated as election advertisements?

A4. The definition of "publish" the election advertisements includes "continue to publish". If any person who intends to stand as a candidate at an election continues to, after he/she has been nominated as a candidate or has publicly declared the intention to stand at the election, display publicity materials previously published (e.g. election advertisements displayed on public light buses and taxis during the previous election but not yet removed), in particular publicity materials displayed (e.g. posters or banners) bearing his/her name or photograph with the intent to promote his/her election in public places or common areas in buildings, such publicity materials may be regarded as election advertisements. For prudence's sake, the person concerned should remove the publicity materials previously published prior to his/her nomination as a candidate or the public declaration of his/her intention to stand at the election.

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Q5. Is it appropriate for a candidate to criticize another candidate or other candidates in his/her own election advertisement?

A5. An election advertisement means any publication published for the purpose of promoting or prejudicing the election of a candidate or candidates at the election. There are occasions that a candidate may publish election advertisement for the purpose of prejudicing the election of a particular candidate or particular candidates at the election, for example, criticizing another candidate or other candidates in the election advertisement with a view to prejudicing his/her/their candidature(s) at the election. On such occasions, the candidate publishing the election advertisement must include the expenditure incurred in his/her election expenses. A candidate must also beware of not publishing any materially false or misleading statement of fact about himself/herself or another candidate or other candidates under the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) for the purpose of promoting the election of himself/herself or prejudicing the election of another candidate or other candidates. Any such publication will amount to an illegal conduct.

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

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Q6. Is the election campaign published by a candidate through Internet platforms such as websites, social media, communication networks, etc. regarded as election advertisement? What should the candidate be aware of if netizens share or forward different candidates' election campaign?

A6. In accordance with section 2 of the Elections (Corrupt and Illegal Conduct) Ordinance ("ECICO") (Cap. 554), election advertisement means any form of publication published for the purpose of promoting or prejudicing the election of a candidate or candidates at the election. On such basis, any election campaigns published through Internet platforms, such as websites, social media, communication networks, etc. by a candidate will be regarded as election advertisement.

If netizens (other than candidates or candidates' election expense agents) merely share or forward different candidates' election campaigns through Internet platforms for expression of views and do not intend to promote or prejudice the elections of any candidates, such sharing or forwarding will not normally be construed as publishing election advertisement. If expenses are involved in the publication of the election advertisement and the publisher is neither a candidate nor a candidate's election expense agent, the publisher may engage in illegal conduct under section 23(1) of the ECICO. However, in accordance with section 23(1A) of the ECICO, a person (other than candidates or candidates' election expense agents) is exempted from the relevant criminal liability under section 23(1) if the person publishes an election advertisement on the Internet, and the only election expenses incurred by the person are either or both of the following charges –

- (i) electricity charges;
- (ii) charges necessary for accessing the Internet.

If the netizens publish an election advertisement with the knowledge and consent of the candidate, no matter whether the candidate has appointed the netizens as his/her election expense agents or not, the candidate should treat the election advertisement as if the same was published by him/her, and should declare the relevant election expenses in the election return.

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Q7. If a candidate publishes an election advertisement without candidate number but subsequently affixes a candidate number sticker on it, will the candidate number sticker itself be regarded as an election advertisement?

A7. A sticker containing only the candidate number is not an election advertisement in itself. However, if the candidate adds the candidate number sticker on the election advertisement which has already been published, the candidate should submit the “[Notification of Corrected Information in relation to Election Advertisements](#)” (Form No.: REO/C/11 (2022CE-E) (SF)) together with samples of the election advertisement with the candidate number sticker on it. It should be noted that if other amendment is made to the content of the election advertisement, it will be regarded as publication of a new election advertisement. Candidates must comply with the requirements to submit copies of the election advertisement and the required information/documents within one working day after publication (i.e. after the amendment).

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Q8. A candidate produced a banner with only his/her name and image on it, and left an area blank for sticking different slogans. Will the banner be regarded as a new election advertisement each time a new slogan is stuck on it?

A8. As the contents on the banner changes, the banner should be regarded as a new election advertisement each time a new slogan is stuck on it. Candidates must submit copies of the election advertisement and the required information/documents in accordance with the regulations on the publication of election advertisement.

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Q9. For election advertisement that can be used repeatedly (e.g. a sash or roll up banner printed with candidate’s information), will it be regarded as a newly published election advertisement every time it is used?

A9. “Publish” means print, display, exhibit, distribute, post up, publicly announce or make publicly known by any other means, and includes continue to publish. For election advertisement that can be used repeatedly (e.g. a sash or roll up banner printed with candidate’s information), when a candidate uses it for electioneering activities at an election for the first time, the candidate will be regarded as publishing the election advertisement and must submit copies of the election advertisement and the required

information/documents in accordance with the regulations. Using the same election advertisement afterwards (provided that there is no change to its contents) will be regarded as continuing to publish, and there is no need to submit copies of the election advertisement and required information/documents again.

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B. Requirements related to Publication of Election Advertisement

Q10. What are the requirements relating to publication of election advertisement?

A10. A candidate who wishes to display his/her election advertisement on government or private land/property must obtain **prior written permission or authorization** as required. Furthermore, the candidate must make available a copy of each of his/her election advertisements and the relevant information/documents in relation to the election advertisement including publication information, permission* or consent of support for public inspection within one working day after publication of the election advertisement by any of the following specified means (for details please refer to [Part VII of Chapter 8 of the Guidelines on Election-related Activities in respect of the Chief Executive Election](#)) -

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

same election advertisement and one hard copy of each of the information/documents relevant to the election advertisement to the RO.

* As to the meaning of “permission”, see [Q18](#).

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Q11. What kind of specified information should be included in an election advertisement?

A11. All printed election advertisements, with the exception of those printed in a registered local newspaper, should contain the printing details, i.e. the Chinese or English name and address of the printer, the date of printing and the number of copies printed. Where an election advertisement is placed in the print media and takes the form of a news report or any other form which does not clearly show that it is an election advertisement, the words “**Election Advertisement**” or “**選舉廣告**” must be clearly stated in the advertisement, to avoid misunderstanding by the readers that it is not an election advertisement.

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Q12. How to make available copies of election advertisement and relevant information/documents for public inspection if a candidate uses the Internet platform (such as website or social media platform) to produce an election website or blog for election campaign?

A12. If a candidate uses the Internet platform (such as website or social media platform) to produce an election website or blog for election campaign, each message published for the purpose of promoting the candidate’s election or prejudicing another candidate’s or other candidates’ election (including text, photographs and video, etc.) will be regarded as publishing a new election advertisement, and the candidate must comply with the requirements for publication of election advertisement. The candidate can upload the hyperlink to the specific election advertisement published (but not the hyperlink to the entire election website or blog), and the information/documents relevant to the election advertisement, onto the Candidate’s Platform or Central Platform within one working day after publication of the election advertisement. The purpose of uploading the hyperlink to the specific election advertisement is to facilitate public inspection and checking by the Registration and Electoral Office and the Returning Officer. If it is technically impracticable to do so, the candidate can upload the hyperlink of the election website or blog. Candidates should check all the uploaded hyperlinks regularly to ensure the election advertisements published via the election website or blog can be accessed by the public during the public inspection period.

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Q13. If pamphlets are printed on papers in different colours contain the same content but should they be regarded as two different election advertisements or the same election advertisement?

A13. According to Section 87 of the Electoral Procedure (Chief Executive Election) Regulation (Cap. 541J) and Chapter 8 of the Guidelines on Election-related Activities in respect of the Chief Executive Election, candidates must make available a copy of each of his/her election advertisement, and the relevant information/documents in relation to the election

advertisement for public inspection within one working day after publication of the election advertisement. For the sake of clarity, candidates should provide copies of each election advertisement with their respective colours/format variation adopted for public inspection.

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Q14. If a candidate produces an electronic poster and publishes through different social platforms (e.g. Facebook, Instagram, Twitter, etc.), should they be regarded as different election advertisements or one election advertisement?

A14. If a candidate publishes the electronic poster through different social platforms on the **same date**, he/she can regard it as one same election advertisement. The candidate can submit the “[Information Sheet in relation to Election Advertisements](#)” (Form No.: REO/C/10 (2022CE-E) (SF)), setting out the names of the social platforms concerned in the column “Manner of publication” and the date of publication, and deposit two identical full colour photographs/printouts/photocopies of the election advertisement concerned with the Returning Officer, for public inspection. He/she can also submit the election advertisement particulars via Central Platform or Candidate’s Platform, setting out the names of the social platforms concerned in the row “Manner of publication” and upload the file of the election advertisement concerned, for public inspection. However, if the candidate published the electronic poster on **different dates** through different social platforms, he/she should regard them as different election advertisements and submit the “Information Sheet in relation to Election Advertisements” to the Returning Officer, or submit the election advertisement particulars via Central Platform or Candidate’s Platform separately by uploading the files of the election advertisements concerned, for public inspection.

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Q15. Should the clothes and balloons with electioneering message bear printing details?

A15. All **printed election advertisements**, with the exception of those printed in a registered local newspaper, should bear printing details, i.e. the Chinese or English name and address of the printer, the date of printing and the number of copies printed. The requirement applies to all printed materials produced or reproduced by any method (e.g. printing machines, duplicators or photocopiers), such as poster, pamphlet, handbill, banner, pennant, placard, etc. The requirement is not applicable to election advertisements which are not printed materials (e.g. clothes or balloons with electioneering message). Candidates only need to provide copies of election advertisement and publication information/documents in accordance with requirements relating to publication of election advertisement.

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Q16. If a candidate self-prints the election advertisement at home, but does not wish to print his/her residential address on the election advertisement, can he/she only print part of the address (for example the names of estate and road) and publish these as the printing details in relation to the election advertisement?

A16. All **printed election advertisements**, with the exception of those printed in registered

local newspaper, must contain the printing details, i.e. the Chinese or English name and address of the printer, the date of printing and the number of copies printed. It applies to all printed materials produced or reproduced by any method (e.g. printing machine, duplicator or photocopier). Candidates must show on the printed election advertisement the relevant printer's address **in full**, for example, the printer's office or business address, correspondence address, residential address, or post office box number (but not email address), and cannot show only part of the address. The aforesaid requirement is also applicable to election advertisements printed at home by the candidate himself/herself.

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Q17. If a candidate discovers an error in the information on the printed election advertisement (e.g. printing details, candidate number), what should the candidate do?

A17. The candidate must immediately stop publishing the election advertisement containing the incorrect information, and withdraws any election advertisement concerned which has been published, such as the publicity posters posted at the designated spots or private land/property. The candidate must also explain in detail the incorrect information in the election advertisement concerned and the follow-up action in writing, and deposit such written explanation with the Returning Officer for record. The written explanation will be made available for public inspection.

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Q18. What does "Permission" refer to?

A18. "Permission" means the written permission of the owner or the occupier of any private land/property or the authority of any government land given pursuant to section 104A(1) of the Public Health and Municipal Services Ordinance (Cap. 132) for a candidate to display or affix a bill or poster on such land/property. A candidate must make available a copy of each of his/her election advertisements, and the information/documents relevant to the election advertisement for public inspection within one working day after publication of the election advertisement according to the means specified by the Electoral Affairs Commission. For display of election advertisement at the designated spots allocated by the Returning Officer to the candidate, once the candidate has obtained the written permission provided by the Returning Officer, he/she does not need to provide a copy of that written permission again for public inspection.

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Q19. Should the distribution locations of election advertisements be stated clearly under the item "Manner of publication"? Should all the distribution locations be listed?

A19. Candidate does not need to list all the distribution locations under the "Manner of publication". He/She is only required to provide the manner of publication, such as street distribution, by mail, etc.

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Q20. If a candidate discovers an error in the particulars (e.g. quantity of advertisement, size, etc.) stated in the “Information Sheet in relation to Election Advertisements” deposited with the Returning Officer, how can he/she correct the relevant particulars?

A20. According to the Guidelines on Election-related Activities in respect of the Chief Executive Election, all corrective information must be deposited with the Returning Officer in a specified form “[Notification of Corrected Information in relation to Election Advertisements](#)” (Form No.: REO/C/11 (2022CE-E) (SF)), or uploaded onto the Central Platform or Candidate’s Platform, within three working days after the polling day, the latest.

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Q21. How should a candidate make rectification if he/she has inadvertently omitted the printing details?

A21. If a candidate has inadvertently omitted the printing details from his/her printed election advertisement(s), the publisher of the election advertisement(s) or a person authorized by the publisher can make a statutory declaration giving the omitted details, and deposit such declaration with the Returning Officer not later than seven days after the publication of the election advertisement(s) concerned.

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C. Consent of Support

Q22. What are the existing arrangements for obtaining written consent of support on the Internet?

A22. In accordance with section 27 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), if a candidate publishes, or authorizes the publication of, an election advertisement that includes the name, logo or pictorial representation of a person or an organization in such a way as to imply or to be likely to cause electors to believe that the candidate has the support of the person or organization concerned, the candidate must obtain the relevant prior written consent. If the required prior written consent has not been obtained, it is still an offence even if the candidate’s election advertisement contains a statement to the effect that it does not imply that support from the person or organization concerned has been obtained. But if the candidate concerned has neither requested or directed nor authorized any person to request or direct the inclusion of the aforesaid name, logo or pictorial representation in his/her election advertisement, then no prior written consent will be required.

On social media and communication websites on the Internet, it is not uncommon that people indicate support for a candidate in relation to his/her policies or activities by inserting a “Like” sign or posting supportive comments on the candidate's webpage. If netizens show support for the candidate out of their own volition by giving responses or indicating “Like” to the election advertisement published by the candidate through the said platform, the candidate is not required to seek the supporters’ prior written consent. However, the candidate must not modify the name, logo or pictorial representation of, or

any content given by, the above netizens, unless prior written consent on the relevant modification has been obtained from them. Otherwise, the candidate will contravene the law.

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Q23. Is it appropriate for a candidate to use another candidate's/person's image/name etc. in his/her election promotional materials to promote his/her election or prejudice the election of another candidate or other candidates?

A23. According to the law, candidates must obtain **prior written consent** from a person or an organization **before** using the name or logo of that person or organization, or a pictorial representation of that person in any of his/her election advertisement **as an indication of having the support from that person or organization.**

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Q24. A serving District Council (DC) or Legislative Council (LegCo) member supports a candidate in his/her capacity of "DC/LegCo member". Is the candidate required to obtain written consent of support from the DC concerned/LegCo? Is the serving DC/LegCo member required to obtain approval from the DC concerned/LegCo?

A24. Whether the reference of office title and the name of organization concerned of an individual supporter in the election advertisement will be considered as an indication that the candidate has the support of the organization concerned will depend on the circumstances of each case. The question to be considered is whether any reasonable person who has seen the election advertisement (including reading the context as a whole) would have the perception that the organization concerned supports the candidate. In any case, candidates should act with care so as not to give the impression that he/she has gained the support of the whole organization. In addition, in accordance with the Guidelines on Election-related Activities in respect of the Chief Executive Election issued by the Electoral Affairs Commission, candidates should ensure that the supporter has obtained the prior written approval of the organization, in accordance with the organization's internal rules and procedures or any established convention, for instance, approval given by the governing body of the organization or by a resolution of that organization passed at a general meeting, for using the name of the organization together with the supporter's office title by the candidate. If in doubt, the supporter of the candidate should consult the organization which he/she belongs to on the internal rules and regulations on the use of his/her office title and the name of the organization.

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Q25. Is it necessary for a candidate to obtain prior written consent if he/she uses an old photograph of him/her attending an event with other persons in his/her election advertisement, such as pictures taken together with government officials?

A25. The question to be considered is whether any reasonable person who has seen the election advertisement (including reading the context as a whole) would have the perception that the person concerned supports the candidate. To avoid misunderstanding, for instance, if

an election advertisement carries a photograph of the candidate attending an activity with other attendees, a caption specifying the particular nature of the event could be added underneath the photograph in such a way that will not imply, or likely to cause electors to believe, that the candidate has the support of those persons appearing in the photograph. If in the circumstances the photograph is likely to cause electors to believe that the candidate has the support of those persons appearing in the photograph, their prior written consent of support should be obtained by the candidate.

On the other hand, regardless of whether the candidate must obtain the consent of support from the person in the photo in accordance with section 27 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), candidates must be aware of whether the publication of election advertisement containing the photograph has complied with the requirements of the Personal Data (Privacy) Ordinance (Cap. 486). As advised by the Office of the Privacy Commissioner for Personal Data, an image of an identified person will constitute his/her personal data and its use for a purpose other than the original purpose of collection or a directly related purpose, without the consent of the person concerned, will be an infringement of his/her personal data. Therefore, candidates when using the aforesaid image should also observe the relevant data protection principles. For details, please refer to [Appendix 8 to the Guidelines on Election-related Activities in respect of the Chief Executive Election](#).

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D. Others

Q26. When will the Returning Officer allocate the designated spots for displaying election advertisements to the candidates?

A26. After the end of the nomination period and after the number of validly nominated candidates is known, the Returning Officer will allocate the designated spots to the validly nominated candidates either by the mutual consent of the candidates or by the drawing of lots.

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Q27. Can candidates display election advertisement on public transport?

A27. For the display of election advertisement on public light buses and taxis, their owners/operators shall obtain prior written approval from the Transport Department (“TD”) and ensure that the display of election advertisement is in compliance with the conditions as stipulated by the TD in an approval letter, in particular the following conditions:

- (a) (i) for taxi, no election advertisement may be displayed on any of the windows;
- (ii) for public light bus, no election advertisement may be displayed:
 - (1) on any of the windows except on the interior surface of:
 - the window on the left of the first row of single-seat; and
 - the window on the right of the second row of double-seat.

Election advertisement to be displayed on each of the abovesaid windows shall not exceed a total size measuring 210 mm by 297 mm (equivalent to

A4 size);

- (2) at areas between the windows and the exterior roof panel; and
 - (3) on the exterior roof panel (except sticker-type election advertisement);
- (b) no luminous or reflecting material may be used for election advertisement; and
- (c) no election advertisement may obstruct any statutory lighting/label/markings required to be shown on the vehicle body as specified by the Commissioner for Transport or stipulated in the Road Traffic Ordinance (Cap. 374) and its subsidiary legislation.

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

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

Candidates are not allowed to display election advertisements or conduct electioneering activities within the no canvassing zone ("NCZ") on the polling day. If a candidate has arranged for the display of election advertisements on the windows or bodywork of any public service vehicles (e.g. public light buses, taxis, etc.), and those vehicles will pass through or be parked within the NCZ on the polling day, the candidate should remove those election advertisements before the polling day, in order to avoid contravention of the prohibition of canvassing activities in the NCZ.

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