



**THE HONG KONG
JOURNALISTS
ASSOCIATION**

PRESS FREEDOM UNDER SIEGE

Grave threats to freedom of expression in Hong Kong

2014 ANNUAL REPORT

**REPORT OF THE
HONG KONG JOURNALISTS ASSOCIATION**

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Introduction and recommendations

The year under review has been the darkest for press freedom for several decades, with the media coming under relentless assault from several directions. There have been attacks on journalists, sackings and personnel changes affecting critical personalities and the withdrawal of advertising, which places pressure on the editorial integrity of publications.

The most prominent case was the brutal attack against former *Ming Pao Daily News* chief editor Kevin Lau in February 2014. Advertising boycotts have affected Next Media Group publications and the free newspaper, *am730*. There has also been serious concern over the state of the electronic media, following the Hong Kong government's decision not to award a free-to-air TV licence to one of the most innovative applicants, Hong Kong Television Network.

This came as various surveys pointed to a deterioration in Hong Kong's press freedom. Most prominently, a new press freedom index initiated by the Hong Kong Journalists Association (HKJA) rated press freedom at 42 out of 100 among journalists, and slightly better at 49.4 among the public. The survey was carried out prior to the attack on Mr Lau and the personnel changes, which included the sacking of Commercial Radio talk-show host Li Wei-ling and the removal of Mr Lau from his chief editor position.

Self-censorship continues to be a major concern. Journalists rated self-censorship at 6.9 on a scale of zero to 10, where 10 indicates that the practice is "very common". The public rated it at 5.4. Journalists rated pressure from owners or management at 6.5, indicating the practice is common, compared with a rating of 6.2 among the public.

So overall, the perception of insiders—the journalists themselves—is worse than the public. The HKJA's chairperson, Sham Yee-lan, called the findings worrying: "The indexes reflect the fact that Hong Kong's press freedom is at a low level." The HKJA will carry out the survey on an annual basis, to track whether press freedom is improving or deteriorating.

The results were released one day after the University of Hong Kong published its six-monthly survey findings on press freedom. It found that the net satisfaction rate with media freedom among the public had dipped to its lowest level since the 1997 handover. It reported that the net satisfaction rate was 15 percentage points—10 percentage points lower than in the previous poll. These results took into account perceptions arising from the attack on Mr Lau and staff sackings and changes.

International groups also reported a decline in Hong Kong's press freedom. Paris-based Reporters Without Borders ranked Hong Kong 61st worldwide, compared with 58th in 2013 and 18th in 2002. The group noted that "China's growing economic weight is allowing it to extend its influence over the media in Hong Kong, Macau and Taiwan ... Media independence is now in jeopardy in these three territories."

The government appears to be unconcerned about these findings, which is worrying given their importance for the free flow of information, which is considered to be one of Hong Kong's four pillar values—and whose erosion may pose grave threats to the business environment in the territory and therefore the general economy.

Indeed, while government officials expressed concern over the attack on Kevin Lau, there are serious worries over whether the police will ever find—let alone convict—the mastermind behind the attack, which is widely thought to be linked to Mr Lau's journalistic work. Several arrests have been made, but these people are thought to be low-level operatives, not those who ordered the attack.

Controversy over free-to-air TV licences also emerged in the year under review. Large-scale protests were staged outside the government headquarters after the administration ruled that Hong Kong Television Network would not be granted a licence. Anger over the decision fed into wider concern over deteriorating standards in the TV industry and whether the sector needed to be shaken up to allow more innovative operators to offer fresh programming. This controversy also came as debate heated up over licence renewal for Television Broadcasts (TVB) and Asia Television (ATV)—the existing free-to-air operators.

Apart from a government announcement to shelve controversial plans for a law on stalking, there has been little movement on the law reform front. On freedom of information legislation, the Ombudsman has recommended that such a law should be enacted given the failings of the government's administrative code on access to information. Law Reform Commission sub-

committees are also studying the issue and the related question of whether to introduce an archives law. But commission work often takes years, and the government is under no obligation to act on its recommendations.

There has at the same time been concern over the attitude of Chinese officials towards the Hong Kong media. Vice-President Li Yuanchao told a delegation of Hong Kong media representatives that the Hong Kong media should report on the mainland's economic development in an "objective, fair, balanced and rational" manner. The hint that media reports are biased against the Chinese government may itself become a source of pressure.

This pressure intensified when Beijing issued a white paper on the "one country two systems" principle adopted by China for governance in Hong Kong. The document stated that Beijing holds "comprehensive jurisdiction" over Hong Kong, which has no residual powers. The paper was issued amid intense debate over political reform for the 2017 chief executive election.

The Director of China's Hong Kong and Macau Affairs Office, Wang Guangya, also reportedly called on the media delegates to increase their coverage of opposition to the pan-democrat Occupy Central movement—a plan to occupy parts of the Central business district if the Hong Kong government fails to come up with a genuinely democratic proposal for electing the chief executive by universal suffrage in 2017.

In last year's annual report, the HKJA stated that journalists were right to be worried about the state of media freedoms under Chief Executive Leung Chun-ying's administration. These fears have been reinforced in the year under review amid serious attacks on press freedom in the form of violent attacks, personnel changes and questionable government decisions about the TV industry. The HKJA therefore calls on Mr Leung and the government to fully respect the independence of the media and to implement the following measures to strengthen the protection of freedom of expression in Hong Kong:

- 1) Take all possible measures to prevent violence against journalists and pursue perpetrators, including the masterminds, with the full weight of the law. All too often these cases—especially attacks of an intimidatory nature—remain unsolved. It is time, given the horrific attack on Kevin Lau, for the government and law enforcement agencies to take all such incidents seriously and to get to the bottom of what are without doubt attempts to undermine freedom of expression and press freedom.
- 2) Rethink its decision on denying a free-to-air TV licence to Hong Kong Television Network. The government had previously pledged to open up the market without a limit on the number of licensees. It should revisit its decision to award only two licences, in particular in light of the second bid by the newcomer to run a free-to-air service. Media diversity is of the utmost importance for the industry. The government must respect this principle to comply fully with its obligations under the International Covenant on Civil and Political Rights.
- 3) Make a ruling on TV and radio licence renewal which encourages media diversity in the industry. In particular, it should encourage the participation of radio and television broadcasters that are innovative and supportive of freedom of expression. It should not base its decisions in any way on how well licensees are propagating government thinking on matters of public concern.
- 4) Enact as a matter of urgency freedom of information and archives laws to ensure that Hong Kong residents, including journalists, have proper access to government information and documents. The legislation should be based on the principles of maximum disclosure, limited and narrowly drawn exemptions and an effective and independent appeal mechanism. Given the urgency of the matter, the government should take the initiative to enact such laws without going through a potentially lengthy Law Reform Commission procedure.
- 5) Review its policy on law reform to ensure that freedom of expression concerns are taken into full account in determining the content of new laws or amendments to existing ordinances.

Further, media owners and top executives should respect the right of journalists to carry out their duties without pressure, including threats that they may be removed from their jobs. This is of utmost importance for protecting freedom of expression, a right that has been undermined through a number of high-profile media sackings and reshuffles in the year under review.

Media owners and executives should also be encouraged to expose advertising boycotts launched by companies or corporations. This should strengthen the resolve of companies to resist pressure to launch such advertising boycotts, which are inimical to media freedoms and over time undermine these fundamental rights.

SECTION 1

Brutal attacks endanger media freedom

Physical attacks on journalists can be regarded as direct attacks on press freedom; the Philippines is a notable case in point. Luckily, Hong Kong has been off the radar for such incidents for more than 15 years. However, that changed in the period under review from July 2012 to June 2013, when there was a sharp escalation of physical attacks, some targeting the bosses of critical media organisations.

The trend has continued in the past year. There were altogether six attacks involving Hong Kong journalists in the territory, compared with 11 in the previous year. However, that does not reflect the brutality of one attack—against the former chief editor of *Ming Pao Daily News*, Kevin Lau.

The attacks prompted considerable concern both in Hong Kong and overseas. In particular, 55 international human rights and media organisations co-signed an appeal letter to Chief Executive Leung Chun-ying urging him to honour his pledge immediately to safeguard press freedom and enact legislation on access to information. The letter sent on March 13, 2014 listed press freedom violations that had occurred in Hong Kong, including the vicious attack on Mr Lau in the previous month.

The signatories in the campaign initiated by the HKJA represent a vast array of international organisations. The International Federation of Journalists' Asia-Pacific deputy director, Jane Worthington, said: "(It) shows the groundswell of concern around the world about diminishing press freedoms in Hong Kong."

FORMER CHIEF EDITOR STABBED IN BROAD DAYLIGHT

The Hong Kong community and media industry were shocked by the brutal chopper attack on the former chief editor of *Ming Pao*, Kevin Lau, on 26 February, 2014. Mr Lau suffered six chop wounds to his back and legs as he got out of his car near a restaurant in Sai Wan Ho on Hong Kong Island. He is still recovering from his injuries.

It was widely believed that the attack was related to Mr Lau's journalistic work. Mr Lau and his employer certainly think this is the case. Nine media organisations including the HKJA condemned the attack. In the joint statement, they said it "is not only targeting at the media sector, but also challenging the rule of law and security of Hong Kong". They expressed concern that "the incident will pose a threat to the freedom of press and speech in Hong Kong".

Chief Executive Leung, without saying whether he thought press freedom was involved in the incident, condemned the "savage" attack and said he felt "indignant" about it. He vowed to seek out those responsible and stated that Hong Kong was "absolutely intolerant about violence of this kind".

Five days later, the HKJA, with four other local news groups representing different political backgrounds and spanning the entire spectrum of the industry, organised a march under the theme "protest against violence" to condemn the attack. More than 13,000 people took part—a record for a march with a journalistic theme. Five-hundred people, mostly journalists, also joined the HKJA's "standing in silence" action before the march.

The police felt the heat and moved quickly to make arrests—much faster than in similar past cases. On March 9, Hong Kong police were informed by their counterparts in mainland China that two Hong Kong suspects had been caught in Dongguan, a city to the north of the territory. The two assailants were handed over to the Hong Kong police for prosecution action.

POLICE COMMISSIONER STEPS INTO CONTROVERSY

Controversy soon emerged over the motives for the Kevin Lau attack. Upon announcing the arrest of the two alleged assailants, the Commissioner of Police, Andy Tsang, said there was no direct evidence to tie the attack with Mr Lau's journalistic work—a view opposed by Mr Lau himself. The police reiterated the contentious view in an official statement, prompting concern that the police were showing bias and passing judgement on the case ahead of trial.

The dispute subsided when Secretary for Security Lai Tung-kuok made a statement to a Legislative Council panel meeting on March 18, saying that the police did not rule out any motives for the attack, including Mr Lau's journalistic work. He emphasised that police officers

would investigate the case thoroughly and comprehensively. Legislators welcomed the remarks and noted that it was a snub for Mr Tsang.

Another nine suspects, some with triad backgrounds, were arrested in Hong Kong. The two men brought back from Dongguan were charged with unlawfully and maliciously wounding Mr Lau with intent to cause grievous bodily harm, a charge which carries a maximum penalty of life in prison.

The two defendants rejected the charges and sources said witnesses were unable to identify the suspected assailants at an identity parade. Mr Lau himself did not see the suspects as he was attacked from behind. The trial is yet to take place.

Despite enjoying reasonably high detection rates for crime in general, Hong Kong has a shameful record in solving premeditated attacks on outspoken media figures. To name a few, the chief editor of *Fresh Weekly* had his fingers chopped in his office in 1985; the publisher of *City Weekly*, who wrote under the pen name “The Young Lord Mo Yung”, suffered serious chop wounds to his back in an attack in front of a five-star hotel in 1994; *Surprise Weekly* publisher Leung Tin-wai had his forearm severed in 1996 just one day before his magazine was due to hit the streets; and popular radio host Albert Cheng suffered deep slashes to his arms, back and right leg in an attack outside the radio station in 1998. There were also threats to send explosives to *Ming Pao*, actual criminal damage to media sales offices and the burning of 26,000 copies of *Apple Daily* in June 2013.

None of these cases was ever solved. This brings into question whether at the end of the day the suspects in the Kevin Lau case will ever be convicted—and in particular whether the mastermind behind the attack will ever face trial.

MEDIA BOSSES ASSAULTED ON BUSY STREET

Less than a month after the attack on Kevin Lau, more violence struck the media industry. On March 19, four men armed with metal pipes attacked Hong Kong Morning News Media Group director and vice-president Lei Iun-han and senior executive Lam Kin-ming in a busy street in East Tsim Sha Tsui. They were not seriously injured. The group was planning to publish a newspaper later this year, but the plan came to a halt in May when contact was lost with the investor.

Ten suspects were later arrested in connection with the case, one of whom was charged with wounding and inflicting grievous bodily harm with intent. Secretary for Security Lai Tung-kuo refused to say whether the attack was related to press freedom. He said only that it was one case too many.

According to Hong Kong’s largest circulation newspaper, *Oriental Daily News*, the attack had nothing to do with press freedom. There were reports that a personal dispute was involved. However, one of the victims, Lei Iun-han, denied the claim. She said she had no idea of the motive and was leaving investigations to the police.

The HKJA condemned the attack. Its vice-chairperson, Shirley Yam, called it a threat to press freedom.

There was also an attack targeting the owner of the free newspaper *am730*, Shih Wing-ching. In July 2013, two attackers ambushed Shih and smashed the windows of his car while he was driving in Tai Kok Tsui. However, Mr Shih avoided injury because he drove away. He said the attack might be related to his outspoken style. No arrests were made in this case.

This was the third attack in two months on media bosses of news outlets with a reputation for critical views. In June 2013, two baton-wielding men attacked the publisher of *iSunAffairs*, Chen Ping, near his office. Chen claimed the attack was related to the magazine. Then later in the same month, a stolen car rammed the gate of the home of Next Media chairman Jimmy Lai. A machete and an axe were left at the scene. No arrest was made in either case.

FORMER POLICEMAN WALKS FREE AFTER HITTING REPORTER

There were also several cases in which reporters or photographers were attacked while performing their duties. In August 2013, two photographers from *Next Magazine* and *Ming Pao* were attacked while reporting on a rally in Mong Kok against a teacher, Alpais Lam, who had previously sworn at the police over their handling of a protest by the Falun Gong spiritual group.

A demonstrator—retired policeman Yeung Chi-wai—allegedly hit and pushed *Next Magazine* photographer Lo Kwok-fai to the ground, even though he had revealed his identity as a media worker. He was hit again later. Meanwhile, *Ming Pao*'s Tang Chung-wang was obstructed while he was trying to take photographs of the incident and was pushed by someone's elbow. Mr Lo filed a report to the police and Mr Yeung was charged with three counts of common assault.

However to the surprise of many, Kwun Tong court acquitted the defendant in January 2014, even though there was strong evidence of bodily contact between the victim and the defendant. Mr Yeung argued that he had pushed Mr Lo's camera because he did not want to be hit by it and Mr Lo fell to the ground. Principal magistrate Ernest Lin allowed the defendant to walk free because he could not rule out the possibility that Mr Yeung was trying to prevent Mr Lo from falling and the prosecution could not prove the defendant's intention to impose violence.

The HKJA and two other media organisations expressed deep regret about the judgement and called for an appeal. They expressed concern that the judgement would set a precedent for further attacks on journalists. The Justice Department promised to study the files and decide whether any follow-up action was needed. There has been no development since then.

The media organisations were correct to be concerned. In October 2013, a *South China Morning Post* photographer, May Tse, was pushed and kicked by a man when she was taking pictures of him and his girlfriend leaving a court building in Kowloon City. Ms Tse was among dozens of journalists filming the couple when the man tried to break through the surrounding reporters, pushing Ms Tse to the ground and breaking her camera in the process. The man was arrested in connection with the case, but no charges were laid despite clear video footage showing the attack.

The HKJA expressed regret about the decision not to press charges and demanded an explanation from the police, but none was given. Such inaction over violence, the HKJA believes, is a threat to press freedom and the rule of law as violent acts targeting journalists seemingly become commonplace.

Another blow to press freedom took place half a year later. An *Apple Daily* journalist and photographer were attacked in May 2014 when they were investigating a suspected case of vote rigging in North Point. The two knocked on the door of a group called the Hong Kong Fuqing Association asking for an interview. Two men from the association came out and asked for the reporters' accreditation. The female reporter tried to film the process with her mobile phone but was pushed towards a wall and suffered scratch wounds to her arm. The men also blocked the photographer's camera and damaged its microphone. They then snatched the reporters' accreditation and camera, only returning the property after a report was filed with the police.

The two suspects were arrested for common assault and criminal damage. The HKJA strongly condemned the violent action, saying even if the men did not want to respond to interview requests, they should not resort to violence.

JOURNALISTS FACE HARASSMENT OUTSIDE HONG KONG

Apart from the six assault cases in Hong Kong, several instances of harassment took place in mainland China and overseas. In October 2013, five journalists and a cameraman from Hong Kong—from TVB, Cable TV, RTHK and Commercial Radio—were detained for about 15 minutes when they were trying to report on a car crash in Tiananmen Square in Beijing that killed five people. The Chinese authorities said it was a terrorist attack linked to unrest in Xinjiang. The journalists were stopped by mainland police when they tried to reach the scene and were later released after officers photographed them and their accreditation documents.

There was also a serious incident in October 2013 during an Asia-Pacific Economic Cooperation (APEC) summit in Bali, Indonesia. Nine journalists—reporters and cameramen from now TV, Commercial Radio and RTHK—were harassed and had their accreditation seized after they doorstepped Philippine President Benigno Aquino on the sidelines of the summit. The reporters, who were standing in a designated press area, yelled several questions to Mr Aquino from a distance of about six feet, including whether he would apologise to Hong Kong people over the Manila bus hostage crisis in 2010 that left eight Hong Kong people dead, and whether he had met Hong Kong's Chief Executive, Leung Chun-ying.

The journalists did not follow Mr Aquino as he left without answering questions. However, officials from the local organiser seized their accreditation, even though they were carrying out legitimate journalistic duties. Three journalists were put on a surveillance list and the now TV journalists were barred from reporting on the rest of the summit, prevented from returning to

their hotel and kept at a police station for an hour before they were allowed into the hotel to collect their belongings and move to another hotel.

The Indonesian authorities argued that the journalists' tone of questioning was tantamount to a "security threat", while Philippine authorities said the "loud" questions constituted a form of aggression.

HKJA chairperson Sham Yee-lan said it was ridiculous and malicious to equate asking questions to protest or a security threat. The HKJA and the News Executives' Association called for accreditation to be given back to the journalists.

A day after the incident took place, Chief Executive Leung said he was "sorry" that he was unable to get back the accreditation for the journalists, over which the HKJA expressed extreme disappointment. The HKJA was dissatisfied that Mr Leung had failed to safeguard the rights of Hong Kong journalists.

The HKJA wrote an open letter to APEC condemning the harassment of Hong Kong journalists. The letter was also signed by more than 20 human rights organisations. The HKJA also staged protests outside the Indonesian and Philippine consulates in Hong Kong.

HONG KONG JOURNALISTS ARRESTED ON MAINLAND

In June 2014, it was confirmed that two Hong Kong journalists had been detained in Shenzhen, which lies just to the north of Hong Kong. A lawyer for the pair said they were detained for "operating illegal publications". The two are veteran journalist Wang Jianmin, who publishes the Hong Kong magazines *Xinwei Monthly* and *Mask*, and his colleague Guo Zhongxiao. Wang holds US and Hong Kong passports, while Guo, who was born on the mainland, is a Hong Kong permanent resident.

Their magazines, which are popular with Chinese visitors to Hong Kong, focus on corruption and power struggles within the Chinese leadership. The former chief editor of the Guangdong-based *Southern Metropolis News*, Cheng Yizhong, said the cases indicated the Chinese authorities were "using judicial means to curb freedom of speech and freedom of publication". No date was given for their trial.

A month earlier, in May 2014, Hong Kong publisher Yao Wentian was sentenced to 10 years in prison for "smuggling ordinary goods" into Shenzhen. Mr Yao is the chief editor of the *Morning Bell Press* in Hong Kong. Analysts believe his jailing was more to do with his publication of a critical book by prominent dissident Yu Jie about Chinese President Xi Jinping.

A newly formed group, the Independent Commentators Association, called the jailing a blow for freedom of publication in Hong Kong. It said publishers may think twice about the risk before publishing and urged the mainland authorities to respect freedom of speech and freedom of publication in Hong Kong.

SECTION 2

Critical voices removed

It is well known that control of an organisation can be achieved either through financial restraint or personnel changes. The personnel changes in the media industry in the year under review are too significant to ignore. Those sacked or reshuffled are either critical or less willing to give in to pressure in their respective media organisations. Such changes have prompted public concern over efforts to muzzle independent voices and the effect of the changes on press freedom and the practice of self-censorship.

The personnel changes included the replacement of the chief editor of *Ming Pao Daily News* and the dismissal of outspoken Commercial Radio programme host Li Wei-ling and the chief editor of the *Hong Kong Economic Journal*, who was succeeded by Alice Kwok—a journalist who later turned to public relations.

MING PAO CHIEF EDITOR SUDDENLY REMOVED

In early January 2014, *Ming Pao Daily News* staff heard shocking news from a radio talk-show programme that their chief editor, Kevin Lau, was to be replaced by a Malaysian editor, who was described in some circles as pro-Beijing. *Ming Pao* management confirmed the news to staff on the same day. It was interpreted as a move to avoid antagonising Beijing and to reposition the newspaper.

Overnight, 140 staff signed a joint statement urging management to explain its decision and to pledge its commitment to editorial integrity and impartial reporting. Some *Ming Pao* staff expressed concern that the new editor would place restrictions on reporting and raised doubts about the paper's future editorial direction, especially on sensitive issues like political reform and the pan-democratic Occupy Central movement, which is opposed by the Chinese and Hong Kong governments.

A *Ming Pao* staff concern group was formed to pressure management over the personnel change. It insisted that the chief editor should safeguard editorial freedom, have the trust of the public, management and the editorial department, and be familiar with the Hong Kong situation.

Ming Pao staff were not alone on this issue. A number of signature campaigns were initiated to support them. Over 200 former *Ming Pao* staff, over 70 *Ming Pao* columnists, 90 Hong Kong and overseas scholars, the Hong Kong Professional Teachers' Union and 43 Malaysian freelance writers all signed statements to express concern over the replacement of the chief editor and to call for guarantees that editorial autonomy and freedom would not be compromised and that self-censorship would not be practised.

However, *Ming Pao* management stuck to its decision to replace Kevin Lau, who was moved to a new job within the group—heading the online division called MediaNet Resources. As a concession to critics, the newspaper's owner agreed to appoint Cheung Kin-bor, editorial director and former chief editor, to Mr Lau's position. The Malaysian journalist, former *Nanyang Siang Pau* editor Chong Tien-siong, joined *Ming Pao* in March 2014 as principal executive editor, a position just below the chief editor. The *Ming Pao* staff concern group, which later became a trade union called the *Ming Pao* Staff Association, expressed concern over the possibility that Mr Chong would become chief editor once Mr Cheung steps down.

During the dispute, the Toronto edition of *Ming Pao* withdrew nine columns within a week. All articles discussed the personnel change at *Ming Pao*. Normally the Toronto edition would publish all columns published in the Hong Kong edition. This unprecedented move prompted five Hong Kong columnists, including former Democratic Party chairman Martin Lee, to leave their columns blank except for a protest headline.

The HKJA issued several statements expressing concern and disappointment over Mr Lau's replacement by an editor unfamiliar with Hong Kong and not trusted by staff, especially in a crucial year when political reform was under discussion. The HKJA also launched a one-person one-letter campaign in January 2014. It collected at least 1,016 letters urging *Ming Pao*'s owner, Malaysian tycoon Tiong Hiew-king, to guarantee *Ming Pao*'s editorial independence.

In the wake of the personnel change, a Legislative Council motion debate proposed by Civic Party leader Alan Leong calling for editorial independence and media autonomy to be safeguarded was passed in late January 2014. The HKJA welcomed the vote and urged all

journalists, representatives of media companies and all Hong Kong people to join hands with it in fighting for editorial independence and opposing outside intervention in the media.

OUTSPOKEN COMMERCIAL RADIO HOST SACKED

The person who broke the news of the *Ming Pao* personnel change, Li Wei-ling, herself became a victim in February 2014. However, the story started earlier—in October 2013.

Ms Li was a Commercial Radio talk-show host and an outspoken government critic. She worked for the broadcaster for nine years, taking on a prime-time morning slot in July 2012. At the end of October 2013, several newspapers reported that Chief Executive Leung Chun-ying was dissatisfied with Ms Li's show and said she was causing problems for the administration. The reports also suggested that getting rid of Ms Li was a precondition for the station to renew its licence in 2016.

In mid-November 2013, Commercial Radio moved Ms Li from the morning slot to an evening programme. The move aroused public concern over whether freedom of expression was being curtailed. Commercial Radio called the move "normal programme scheduling". But Ms Li called it an abnormal move and claimed that the station's chief executive, Stephen Chan, had threatened to fire her.

Her sacking came three months later, in February 2014. She was not even allowed to return to her office to pack her belongings and say farewell to colleagues. Ms Li accused the station of kneeling down in return for its licence renewal. She revealed that a person close to Leung Chun-ying had told her: "Leung said he hated you most in all of Hong Kong", and warned her to "be careful for her job".

Ms Li also revealed details of a conversation she had with Stephen Chan, who changed his title from chief executive to chief adviser one day before she was sacked. Mr Chan was quoted as saying that he had encountered difficulties in approaching the authorities over Commercial Radio's licence renewal. Ms Li concluded: "I'm unreservedly, 100 per cent sure that this incident is the Leung Chun-ying administration's suppression of press freedom and freedom of speech."

Both Commercial Radio and Mr Leung denied Ms Li's allegations and claimed that the details quoted by her were untrue. In 2004, Commercial Radio dismissed two outspoken talk-show hosts, Albert Cheng and Wong Yuk-man, also reportedly over licence renewal—and also disputed by the broadcaster.

Mr Leung also faced accusations over the station's licence. He was accused by election rival Henry Tang during the 2012 chief executive election campaign of proposing to shorten Commercial Radio's licence when he served as an executive councillor.

The HKJA expressed deep concern over Ms Li's claim that press freedom in Hong Kong was under serious threat and called on Mr Leung to keep the promise he made to the HKJA during his election campaign that the government and all public bodies would safeguard press freedom and freedom of speech as laid down in the Basic Law. The HKJA also urged the Communications Authority to examine whether Commercial Radio had complied with its licensing requirements.

Pan-democrat legislative councillors Albert Chan and Claudia Mo moved motions under the Legislative Council (Powers and Privileges) Ordinance to launch an inquiry into the termination of Ms Li's contract. However, both motions were voted down by the pro-establishment camp.

CONTROVERSIAL FIGURE TAKES OVER AT BUSINESS JOURNAL

The 40-year-old *Hong Kong Economic Journal* experienced a leadership earthquake in 2013. The newspaper was traditionally one of the most influential publications in Hong Kong and was vocal in criticising Leung Chun-ying during the chief executive election campaign in 2012. It received calls from Beijing's liaison office during this period, as well as letters of complaint from Mr Leung. (See 2013 Annual Report.) Ownership had changed hands in 2006 from respected journalist and founder Lam Shan-muk to businessman Richard Li, son of tycoon Li Ka-shing.

There were several reports that the *Economic Journal* wanted to terminate the columns of prominent commentator Joseph Lian, who had received a legal letter from Chief Executive Leung Chun-ying's solicitors in February 2013 over an article he had published in the newspaper

questioning the chief executive's integrity. However, at press time, Mr Lian was still writing columns for the newspaper.

The leadership change was initiated in May 2013 when chief editor Chan King-cheung was promoted to deputy publisher and president of the newspaper's digital arm, EJ Digital. Executive chief editor Chan Pak-tim became the acting chief editor.

In July 2013, senior journalist Loh Chan resigned as the newspaper's CEO. One month later, Chan Pak-tim also resigned, just days before Alice Kwok became chief editor. According to the conclusions of an HKJA investigation in 2003, Ms Kwok was one of those involved in self-censorship at the Metro Finance channel of Metro Broadcast Corporation. She was later involved in public relations at the Hong Kong Jockey Club and was the head of the online financial newspaper, *Headline Finance*, which is a subsidiary of the free newspaper, *Headline Daily*.

Deputy chief editor Yuen Yiu-ching and his team of three reporters quit in October 2013. One month before their resignation, Ms Kwok partially withdrew one of their articles, which cited examples alleging that major broadcaster TVB's news reporting was in favour of Chief Executive Leung Chun-ying.

Controversy continued after Ms Kwok took office. The number of pro-establishment commentaries increased in the *Hong Kong Economic Journal*. At the same time, some critical commentaries were withdrawn or trimmed and some writers received "advice" from editors to tone down their writing.

Columnist Edward Chin, an active supporter of the Occupy Central movement and a hedge fund manager, said he had received advice from an editor in February 2014 to write only on financial matters. This was the first time in eight years that he was told what to write. He made the issue public and refused to compromise. His columns continue to be published in the same vein as before he received the advice.

Another columnist, Chan Ka-ming, said in March 2014 that an editor had told him that one of his articles—on tycoon Li Ka-shing—was a bit extreme, hinting that he should change it. He promised to write another piece. At the same time he went public on the issue. Ms Kwok denied withdrawing the article and the original piece was finally published.

Columnist and former chief editor Joseph Lian also revealed that an article he wrote had been trimmed by an editor in November 2013. He said this had never happened in the previous 20 years. The changes related to questions over whether potential corruption was involved in a government decision to deny a free-to-air licence to Hong Kong Television Network. (See section 4.)

Mr Lian also revealed that the newspaper had asked the publisher of his book to withdraw three controversial articles commenting on allegations that Leung Chun-ying had connections with the Chinese Communist Party and triads. The book contains a collection of the articles he published in the *Economic Journal*. Ms Kwok responded that she was not responsible for book publishing.

Columnist Wong Ming-lok also shared her experience about an incident that took place in May 2013. She said an article criticising Cheung Kong, which is owned by tycoon Li Ka-shing, had been withdrawn. She said she was told that she should not focus on political issues. The incident happened when Chan Pak-tim was acting chief editor. He said he knew nothing about it.

6,000 VOICES CONDEMN PRESS MUZZLING

All these cases pointed to attempts to mute independent media personalities. "The trend is very clear, somebody wants to control the media, to punish disobedient journalists," said HKJA chairperson Sham Yee-lan. The HKJA and other media groups organised a protest on 23rd February 2014 demanding that the chief executive keep his election promise to defend press freedom. A total of 6,000 people joined the march to the chief executive's office under the banner "Free Speech, Free Hong Kong".

The HKJA hopes that the government hears and heeds these voices. This is particularly important given the results of Hong Kong's first press freedom index, which was initiated by the HKJA with help from University of Hong Kong pollsters. It showed that the press freedom index for journalists stood at 42 on a scale of 0 to 100, which shows a definite negative outlook on press freedom. The index stood at 49.4 for the general public, which is a slightly negative feeling towards press freedom.

Self-censorship is the issue which worries journalists most. They ranked it at 6.9 on a 10-point scale where 10 is the worst. Top-level personnel changes may well further exacerbate this trend.

SECTION 3

Invisible hand squeezes media independence

The placing or pulling of advertisements is an invisible hand that can be used to sell products or services, support friendly reports or penalise unfriendly publications. Such pressure comes mainly from the business sector.

Newspapers which publish “negative” reports know the dangers very well. Most are willing to pay a heavy price in order to uphold press freedom. For example, advertisements from the prominent Hong Kong developer, Henderson Land, disappeared from *Ming Pao Daily News* for around 18 months from late 2009 because it published a series of investigative reports on the questionable methods used to sell flats at 39 Conduit Road—a luxury development on Hong Kong Island. It lost advertisements worth several million dollars during that period.

Hong Kong Economic Journal suffered the same fate several years ago when tobacco companies launched a boycott because a former columnist was an anti-smoker and wrote a number of articles in support of tobacco control. The newspaper’s founder, Lam Shan-muk, revealed the situation in February 2014 without mentioning the value of the lost advertisements.

There is however pressure of another kind. Businessmen may at times forgo business principles for long-term interest, namely good relations with the government. This opens the door to political pressure being exerted on newspapers. Such pressure is sometimes subtle, aimed at fine-tuning unfriendly reports. Some intervention can be heavy-handed, as when senior management directly orders editors to stop printing or broadcasting critical items. However, the most stark example in the year under review was the withdrawal of advertising in a number of publications, which ate into a major revenue stream for publications, thereby endangering the quality of their editorial work.

There is increasing evidence that an invisible hand, or economic inducements, are increasingly being deployed to encourage news media to fall in line with Beijing and the Hong Kong establishment. By placing or pulling advertisements, those in power can exert immense influence on the media and its management. The beauty of such tactics is that they are much less visible to outsiders and finding hard evidence is never easy.

TREND STARTED BEFORE 1997 HANDOVER

Private sector electronic media organisations rely on advertising, and the print media on both advertising and revenue from newspaper sales. Adverts thus become a vital source of revenue for the media—as well as an effective tool of control.

There was concern even before the 1997 handover that pro-Beijing forces were using economic leverage to gain influence over the news media. However, this trend was not threatening in the 1980s given the insignificant presence of Chinese enterprises. The number of listed Chinese enterprises is a good reference point. In 1984, only four percent of listed companies were from mainland China. This proportion rose to 24 percent in 1997. However, in 2013 the proportion was a highly significant 56.5 percent.

Apart from exerting pressure on advertising revenue, Beijing can also twist the arms of local tycoons to follow its lead by rewarding the more accommodating media and penalising those which do not toe the line. The outspoken Next Media group, which publishes *Next Magazine* and *Apple Daily*, has been subject to such pressure since it started publishing in the early 1990s. Despite the popularity and huge circulation of the group’s publications, they did not receive any adverts from Chinese enterprises or companies with major business interests in China.

Property tycoons, to stay on good terms with Beijing, imposed a de facto boycott on the group. *Apple Daily* chief editor Cheung Kim-hung said the newspaper had never received any adverts from these developers since its founding in 1995. At the same time, other news media received many property adverts.

Hong Kong Economic Journal founder Lam Shan-muk wrote in an article published in February 2014 under the pseudonym Lam Hang-chi that the newspaper had suffered in the past from an advertising boycott from traditional leftist corporations and other pro-Beijing companies. He did not mention the time frame. Mr Lam sold the newspaper in 2006.

INTERNATIONAL CORPORATIONS FEEL THE HEAT

In the past, multinational corporations and big Hong Kong companies could withstand pressure from China and stick to normal business practice by putting their advertising money in media with a proven circulation and good readership profile. With advertising revenue from these banks and renowned international brands, the Next Media Group maintained a relatively healthy balance sheet and could continue to speak out on human rights, political control and other controversial issues. Other independent media could also avoid relying too much on advertising revenue from Chinese state enterprises and property developers.

However, the media environment has become more complicated in recent years. Mr Lam explained in his article that there was only one boss in Hong Kong and mainland China—namely the Chinese government. He said the leaders' instructions would be followed once they gave out hints about what they wanted. Sometimes, they may get more than they wanted and all adverts would disappear from targeted newspapers.

There is evidence that such hints have become more frequent. There have been reports suggesting that chairmen or senior executives of big corporations receive hints while meeting senior mainland officials stationed in Hong Kong that they should avoid supporting “unfriendly media”. As a result, economic pressure is mounting on outspoken and independent news outlets.

There are several reasons for the deteriorating environment. After more than 30 years of continual growth, China has become an economic giant and the growth engine for the world economy. All multinational and big corporations strive hard to enter the Chinese market to maintain their own growth. The Chinese government can therefore increasingly dictate rules to such eager companies. Even big names like Google and Yahoo cannot ignore the likes and dislikes of the host government. This gives Beijing considerable leverage to reward and punish those who do not play by the rules or dare to challenge its policies. Those international banks and corporations which try to place adverts in outspoken media outlets may now face not only political pressure but also economic penalties. They have difficult decisions to make, and this further strains the advertising revenue available for independent media.

Another major change is the election of Leung Chun-ying as Hong Kong's chief executive in 2012 and the more heavy-handed approach by Beijing towards Hong Kong. This development is actually two sides of a single coin. Mr Leung would not have been able to secure the top position in Hong Kong if the central government was not adopting a more hardline policy. On the other hand, Beijing's hardline policy could be more readily executed under Mr Leung's stewardship as he could make use of the huge government apparatus and influence to twist the arms of business leaders to advance Beijing's political agenda whether on political reform or exerting greater control over critics.

Since his inauguration, Mr Leung never hid his distaste for criticism and his readiness to combat views deemed unacceptable to him or Beijing. His threat to take legal action against former *Hong Kong Economic Journal* editor Joseph Lian over critical comments made in the newspaper was a clear indication of how the chief executive saw press freedom. (See 2013 Annual Report.)

BOYCOTT SQUEEZES NEWSPAPER ADVERTISING RATES

Apart from courting more accommodating media organisations, the more important step for the government is to discipline unfriendly or independent news media using both political and economic means. A cursory glance at the print version of Next Media Group's flagship newspaper, *Apple Daily*, illustrates the impact of Beijing's more aggressive strategy. About a year ago, the printed edition carried many adverts from leading local and international banks such as HSBC, Hang Seng Bank and Bank of East Asia. However, these adverts have now disappeared. The newspaper's main news section has therefore shrunk from 30-32 pages to 24-26 pages.

In an interview with another media outlet, *Apple Daily's* chief editor, Mr Cheung, revealed a long list of major enterprises pulling adverts from the newspaper. In addition to the three banks mentioned above, Standard Chartered Bank, Hongkong Land and the Kerry Group also withdrew adverts. The list does not seem very alarming at first glance, but when Chinese state enterprises and major property developers are taken into account, it means that almost all major enterprises in the city have pulled their adverts from the outspoken newspaper group. That means the Beijing authorities have managed to impose an almost total boycott on the Next Media Group, leaving no-one in doubt about the financial implications of taking a critical editorial line.

Mr Cheung did not reveal how much advertising revenue the newspaper had lost because of the boycott, but it is quite clear that management is feeling the heat. In March 2014, it announced a five percent cut in costs across the whole group. However, Mr Cheung played down the impact of the boycott and vowed that the newspaper could withstand the boycott.

The effect on revenue and cost can be looked at both quantitatively and qualitatively. From the quantitative side, losing frequent and significant accounts pushes content and advert ratios to new lows, meaning that revenue and profit will be squeezed. This is especially acute as the newspaper tries to maintain its content to meet increasing competition in the media and internet world.

According to Tsang Kam-keung, CEO of a prominent advertising company in Hong Kong, even though more than half of listed companies in the territory are Chinese enterprises, they represent only 10 percent of advertising expenditure over the past few years, and that is dominated by financial firms. However, Mr Tsang noted that the profit margin of newspapers is also around 10 percent, which means that the withdrawal of adverts may be significant. He said withdrawal may also influence other friendly organisations and international corporations to follow suit.

From the qualitative point of view, as more renowned corporations withdraw their adverts, the advertising rate that newspapers can impose on their clients will decline as fewer companies are bidding for space. In the case of the Next Media Group, the impact could be substantial since the newspaper's pool of accounts was already limited by the boycott of pro-Beijing businesses. In addition, the withdrawal of reputable brands will undermine the newspaper's image, making it harder to attract clients of a similar status. *Apple Daily* will therefore have an uphill battle winning back the loss of revenue by the disappearance of major accounts.

The group and its owner, Jimmy Lai, might have enough money to cover the lost revenue for a certain period of time, but as there is no sign of the boycott being relaxed, the drain on the newspaper could take on long-term implications. It would be a huge challenge or even mission impossible for the newspaper to maintain high-quality news coverage with ever diminishing revenue.

FREE NEWSPAPER ALSO HIT BY ADVERTISING BAN

Next Media Group is not alone in facing the onslaught. The free newspaper, *am730*, an independent and comparatively moderate voice in the Hong Kong media, also faced advert withdrawals, although on a smaller scale. According to the newspaper's owner, Shih Wing-ching, mainland-associated companies suddenly pulled their adverts from the newspaper without explanation in late 2013. He said he thought the act had something to do with the newspaper's relatively critical stance on the Hong Kong government.

Mr Shih did not go into details of the withdrawals. But according to a study conducted by Annisa Lee Lai, associate professor in the School of Journalism and Communication at the Chinese University of Hong Kong, three Chinese banks pulled their adverts or drastically cut them back in *am730* in the final quarter of 2013. They were Bank of China, China Construction Bank (Asia) and China Citic Bank International. They had previously advertised fairly frequently. For example, China Citic Bank International failed to place any adverts in *am730* in the final quarter, after placing adverts almost every month at a cost of HK\$2 million in July 2013 alone. Ms Lee estimated that the newspaper may have lost between HK\$200,000 and HK\$1.2 million per month from the other two banks.

Ms Lee noted that it was unusual for long-term clients to pull adverts during the fourth quarter, which is prime time for advertising. If implemented across the board, the move would hit free newspapers particularly hard, as they rely almost exclusively on advertising revenue.

Ms Lee admitted that it was difficult to deal with the invisible hand. However, she said that since big companies treasured their corporate image, the exposure of politically oriented withdrawals of advertisements may have some effect in the power struggle between newspapers and advertisers.

A SMALLER SPACE FOR DISSENT

Using economic means or the invisible hand to tame the once diverse news media in Hong Kong has become Beijing's long-term strategy. What worries many observers is not only the boycott itself, but the acceptance or at least the indifference of society at large to such threats. Other news media declined to speak out against the boycott. Some even regarded it as normal practice

to discipline those who are not cooperative. Even politicians did not question the practice vigorously, thereby allowing big corporations to get away with it. When most of the media industry as well as society do not raise objections, boycotts will be here to stay or may become even more widespread.

When economic means to penalise outspoken media outlets becomes the norm, there will be ever smaller room for vigorous debate in the mainstream media as more radical or critical views are screened out to avoid trouble. Those who want to uphold their independence will think twice every time such controversies emerge. Self-censorship may therefore become more prevalent, while more outspoken media organisations have greater difficulties maintaining their edge in the industry with ever shrinking revenue.

SECTION 4

Licences become tool to gag media

The electronic media reaches most people in a city. Hong Kong is no exception in this regard, in particular as regards the provision of free-to-air services. However, the government's commitment to media diversity was brought into serious question in October 2013 when the Executive Council denied a licence to one of three applicants—Hong Kong Television Network.

The decision prompted serious soul-searching about why the government issued licences to two applicants—both operators of existing pay TV services—but not to a newcomer which had vowed to shake up the established industry.

The free-to-air market currently has two players—the dominant Television Broadcasts (TVB) and the struggling Asia Television (ATV). The government is reviewing whether the two stations should have their licences renewed in November 2015. Some have called on the government not to renew ATV's licence given its questionable performance and management practices over the past few years.

The renewal of licences for the two commercial radio broadcasters—Commercial Radio and Metro Radio—also prompted controversy, with allegations that a controversial talk show host was sacked to pave the way for her station to have its licence renewed. (See section 2.) This highlights how the issue of licences or their renewal can become a way for the government to pressure TV and radio stations.

TELEVISION NEWCOMER BARRED

In 2009, the government appeared to open the door to greater competition in the free-to-air television market. However, for the following four years the government sat on a decision, even though the regulator, the then Broadcasting Authority, had recommended that the three applicants should all be granted licences. The three are Hong Kong Television Network, i-Cable Communications subsidiary Fantastic Television and PCCW's Hong Kong Television Entertainment Company. The latter two applicants already operate pay TV services.

The announcement that the two existing operators would be granted free-to-air licences but not the newcomer—Hong Kong Television Network—came as a bombshell. Commerce secretary Greg So said the decision reflected a “gradual and orderly approach” to introducing competition to the TV market by a “fair, transparent and just” process.

A senior government source said a consultant's report—never made public—had shown that Hong Kong Television Network was the weakest applicant and that the Executive Council approved the licences “on merit with no political considerations”. Mr So meanwhile cited the report as saying that Hong Kong could not support five free-to-air TV stations.

The decision came despite the then Broadcasting Authority's recommendation on the issue and a 1998 government paper stating that “under the new technology-neutral licensing regime, there would be no limit on the number of domestic free licences issued.” An expansion in the number of TV licences became possible with the introduction of digital TV. The authority—now renamed the Communications Authority—said the government stopped communicating with it on the issue in February 2014.

The chairman of Hong Kong Television Network, Ricky Wong, described the Executive Council decision as “unjust” and “against the public”. He complained that he did not know why he had been denied a licence and that the rules had been changed from having an unlimited number of licensees to choosing just two applicants. He also revealed that a very senior government official—thought to be former commerce secretary Rita Lau—had invited him in 2009 to submit a bid.

The public response was also strong, perhaps not surprising given that a University of Hong Kong poll in June 2013 found that the largest proportion of survey respondents backed the Hong Kong Television Network bid. Within days of the announcement, some half a million people endorsed a Facebook call for a protest march on the government headquarters at Tamar. About 60,000 people turned up in black T-shirts, including Hong Kong Television Network staff who called the licence denial a threat to Hong Kong's core values. They called on the government to give a full explanation for its decision.

The demonstrations outside the government headquarters continued for a week—in a move that was reminiscent of protests in the same location in 2012 against government plans to introduce national education into the school curriculum.

Legislative councillors entered the fray, seeking to use their special powers to investigate the controversy. However, pro-establishment members voted down the motion 37 to 28. Some legislative councillors reported that they had been lobbied by officials from Beijing's liaison office in Hong Kong to vote against the motion. One, Leung Ka-lau, said the officials were concerned about the possibility that the government would be forced into a damaging policy U-turn.

The whole episode threatened to degenerate into farce after some Executive Council members, including its convenor Lam Woon-kwong, revealed that they had not gone along with the chief executive on the licence issue. Three out of nine non-official members reportedly maintained that three licences should be issued.

Mr Lam said the controversy had seriously damaged the government's standing. He was widely quoted as stating: "I hope the chief executive can conduct a thorough review of the entire incident and the (decision-making) process as soon as possible to avoid future government decisions again deviating from public expectations. It ought to be obvious to most that the incident has already done severe damage to the government's credibility. Exco's decision is also way off the majority's expectations. These are facts which can no longer be disputed. We simply cannot wish these facts away."

More damning revelations emerged with an outright denial that the government's external consultant had found the market could not sustain three newcomers. This denial came from the consultant's managing partner, Jenny Ng, who publicly accused the government of distorting its report. Ms Ng, who was later fired by the agency, had been in charge of the study. The consultant took to the stage at a protest outside the government headquarters in February 2014 to explain the findings and denounce the government's decision to leave Hong Kong Television out in the cold.

RICKY WONG PITCHES FOR A MOBILE SERVICE

In December 2013, Ricky Wong announced that he would launch a mobile TV service in July 2014. He said it would include a 24-hour news channel. This came after his firm bought China Mobile Hong Kong Corporation for HK\$140 million. The firm holds what is called a unified carrier licence, which allows the licensee to offer mobile television services through its broadcast spectrum. Under Mr Wong's plan, the public would be able to watch programmes through a set-top box connected to the internet.

However, Mr Wong's plans were again blocked by the government. The Communications Authority warned that he would need a free-to-air or pay TV licence if his service became available to more than 5,000 households. There was a further setback when TVB announced that it would terminate an agreement to lease six transmission stations to China Mobile Hong Kong in July 2014.

Mr Wong cried foul, accusing the government of "moving the goalposts" each time he came up with a TV plan. He went further: He took reporters on a bus trip to show that programmes offered by TVB and ATV could be picked up on the run using currently available technology. However, the Communications Authority insisted that the two stations were not in breach of their licences.

Mr Wong decided to take the dispute to court. A judicial review over the government decision to refuse him a free-to-air licence is scheduled to start in August 2014, with a decision expected before the end of the year. He was also granted leave to seek a review of the government's handling of his plans for a mobile TV service. Mr Wong said: "We hope both judicial reviews can obtain a good response so we can provide entertainment programmes to citizens as soon as possible."

Two Hong Kong TV viewers—Freeman Lam and Kwok Cheuk-kin—were also given permission to challenge the licence decision in court. The judge said the issue concerned their right to freedom of expression.

At the same time, Mr Wong submitted a second application to run a free-to-air TV service. It unveiled plans to run three channels, Cantonese, English and a news channel, with a total

investment of HK\$3.4 billion over six years. In June 2014, the Communications Authority asked for public views on the application.

There have also been reports that Mr Wong may link up with ATV to offer the programming he has already produced for Hong Kong Television Network. Mr Wong headed ATV for 12 days in 2008 before leaving amid differences with senior executives. There have also been suggestions that Mr Wong may try to buy ATV. None of the reports have been confirmed.

To the public at large, the government seems determined at all costs to stop Mr Wong from going into the television business. No reasonable explanations have been forthcoming from either Leung Chun-ying or Greg So about why Hong Kong Television Network was denied a licence given that Mr Wong is a tried and tested entrepreneur with innovative ideas and a businessman without apparent political links.

What is certain is that the whole saga is a blow for media diversity. It will deprive the industry of much needed competition, which will in turn lead to lower quality and less programme choice at a time when the industry desperately needs innovative ideas. The level playing field for business may also be compromised.

ATV FINED OVER MANAGEMENT INTERVENTION

ATV attracted the ire of the Communications Authority over intervention by its major investor, Wong Ching (a mainland tycoon known as Wang Zheng in Putonghua), in the daily operations of the station. In August 2013, the authority fined the broadcaster HK\$1 million for breaching the “no-control undertaking” Mr Wong made in 2010 as a licensing condition because he “has unduly interfered with the day-to-day management and operations of ATV, and in so doing exercised de facto control of ATV.” Mr Wong was neither a shareholder nor a director of the station. The fine was the maximum allowed under the broadcasting law.

The ruling was released one week after the Court of Final Appeal rejected a bid by ATV to prevent the Communications Authority from releasing its report. This was the last chance for the broadcaster to seek to block the report.

After a two-year investigation, the authority found that minutes of meetings provided by anonymous interviewees from the station showed that Mr Wong had a direct and active role in daily affairs such as staff discipline and programme production and promotion. It also found that principal ATV officers reported to Mr Wong on their work.

The authority ordered executive director James Shing to step down since he had allowed Mr Wong to interfere in the station’s operations and he was therefore no longer a “fit and proper person” to run a TV station under the Broadcasting Ordinance. It also found that Mr Shing had provided misleading information to the authority and provided doctored versions of meeting minutes in a bid to conceal Mr Wong’s involvement in ATV management.

ATV announced that Louie King-bun would replace Mr Shing as executive director on the last day given by the authority for the broadcaster to remove him. This came despite an earlier pledge by ATV to appeal to the Executive and Legislative councils against the removal order and the staging of a protest outside the government headquarters. Mr Louie is a former executive chief editor of the pro-Beijing newspaper *Ta Kung Pao*. He joined ATV as vice-president in 2012.

Mr Louie himself was sacked in February 2014 after lodging a complaint with the Communications Authority that Wong Ching was still meddling in the station’s affairs. ATV did not give any reason for the dismissal, but media reports pointed to Mr Louie disobeying Mr Wong’s directives.

The Communications Authority confirmed that it had received a complaint from a citizen, without naming the complainant. If the complaint is substantiated, it will be the second time that Mr Wong will have breached his “no-control undertaking”. It will also be a slap in the face for the authority over its August 2013 ruling that Mr Wong should refrain from exercising de facto control of ATV.

RENEWAL OF MEDIA LICENCES SPARKS CONCERN

ATV’s practices are hanging over government consideration of whether to renew the licences of the two free-to-air broadcasters, TVB and ATV. The licences expire on November 30th 2015. There are concerns about the deteriorating standard of the broadcasters’ programmes and

whether something needs to be done to revitalise the industry. The controversy over Hong Kong Television Network is a symptom of this concern.

At the end of a two-month public consultation on the renewal of the broadcasters' licences, the Communications Authority announced in April 2014 that it had received 3,700 submissions plus over 1,000 completed questionnaires from individuals.

One month earlier, Communications Authority chairman Ambrose Ho told legislators that it would consider TVB and ATV's financial viability, programming arrangements, operation capabilities including past performance, and public opinion in deciding whether to recommend licence renewal. The authority is set to make its recommendation to Chief Executive Leung Chun-ying in November 2014, before the Executive Council makes a final decision.

In an apparent attempt to win back viewers, beleaguered broadcaster ATV made a renewed effort to appeal to Hong Kong viewers in November 2013 by offering more self-produced dramas. It said that it had increased original primetime production from 32 percent in 2009 to 64 percent in 2012. Acquired programmes made up 233 hours in 2013, down from 665.5 hours in 2009.

However, members of the public complained that most self-produced programmes were repeats of either newly produced or old shows.

After submitting its renewal application to the Communications Authority, ATV's then executive director Louie King-bun said the station had pledged to invest at least HK\$2.3 billion over six years. However, there was doubt over the commitment when ATV became embroiled in another legal case in April 2014. Former ATV directors Payson Cha and brother Johnson Cha sued Wong Ching for HK\$245 million for failing to repay a loan, according to a High Court writ.

Communications Authority chairman Ambrose Ho said the authority would monitor whether the legal action would affect ATV's financial soundness, a factor the watchdog will take into account in considering whether to renew its licence.

Earlier this year, different parties commissioned opinion polls on whether ATV should be granted another licence. One poll, conducted by the Democratic Party among about 600 people in March 2014, found that 86 percent of respondents did not watch ATV programmes in the past week and 51 percent said ATV's licence should not be renewed.

It is unclear whether ATV's licence will be renewed. Even if it is not, it may not benefit viewers because TVB's status will remain unchallenged, even though the government has allowed two new companies to set up free-to-air services. TVB's dominant status may even be strengthened. This would harm media diversity and ultimately freedom of expression.

STORM OVER COMMERCIAL RADIO LICENCE RENEWAL

The 55-year-old radio broadcaster Commercial Radio must submit an application to extend its licence by August 25, 2014. Its licence expires in 2016. The station is one of two commercial radio stations along with Metro Radio Hong Kong, whose licence expires in the same year.

Controversy hit Commercial Radio in February 2014 when the broadcaster announced the sacking of outspoken talk-show host Li Wei-ling less than three months after she was moved from her popular morning show. The sacking was linked to the licence renewal process.

Ms Li accused Commercial Radio of sacking her in exchange for the government agreeing to renew its license. She said former station chief executive Stephen Chan had encountered difficulties in approaching the authorities over licence renewal. She said Mr Chan had told her that he knocked on the door of the Communications Authority over the issue but was ignored.

However, Mr Chan rejected Ms Li's claims. He denied having "knocked on the door" of the Communications Authority, adding that Ms Li was no obstacle to licence renewal. Mr Chan emphasised that the radio station had not yet initiated any renewal procedures nor had he held talks with any official authorities. The authority also denied there had been any contact.

The episode recalls events in 2004 when two critical talk-show hosts—Albert Cheng and Wong Yuk-man—were forced to leave the station. Media reports at the time alleged that the sackings were linked to the renewal of Commercial Radio's current licence—an allegation denied by the broadcaster. There is considerable concern about the Li Wei-ling sacking and its possible implications for media diversity and freedom of expression.

The other radio player in Hong Kong is government-owned Radio Television Hong Kong, which suffered a blow to its expansion plans in January 2014, when the government withdrew a funding plan for its new headquarters in Tseung Kwan O. This came after pro-establishment lawmakers expressed concern over the HK\$6 billion cost of the new building, which will replace three existing structures in north Kowloon.

The government says it will retender the project, but this means there will be at least a two-year delay, which will in turn affect the broadcaster's radio and television modernisation plans. Pro-Beijing forces in Hong Kong have long been hostile to the broadcaster, saying it is too critical of the government.

TVB BANS NEXT MEDIA JOURNALISTS

In November 2013, the dominant free-to-air TV broadcaster, TVB, imposed a ban on all Next Media journalists from its press conferences and promotional events over the group's coverage of the Hong Kong Television Network saga. It alleged that the group's publications, which include *Apple Daily* and *Next Magazine*, were "attacking and vilifying" TVB's coverage of the controversy and publishing "inaccurate reports".

TVB was also unhappy over Next Media's coverage of its anniversary gala just a few days earlier. A protest was held outside the station's headquarters on the night of the gala. Those taking part staged a mock funeral mourning "the death of television" and accused the station of being hegemonistic. Many taking part were said to be supporters of Hong Kong Television Network.

This is thought to be the first time a media organisation has banned journalists from another group from covering its stories.

Apple Daily chief editor Cheung Kim-hung expressed regret over TVB's decision and denied that it had been reporting false news. The HKJA accused TVB of meddling with press freedom and urged the station to reconsider its decision. TVB refused to withdraw the ban.

In another development, Democratic Party chairwoman Emily Lau—herself a former HKJA chairperson—used an interview with TVB to criticise the ban on air. She said: "TVB should not ban reporters from covering news. I deeply regret this."

SECTION 5

New media becomes alternative news source

While press freedom has been diminishing and self-censorship has become a greater problem in the mainstream media, more people are turning to the new media for news and information. This is reflected in an increase in the number of online sites or radio stations that have emerged over the past few years.

Statistics show that the new media is becoming more important. According to regular surveys conducted by the Public Opinion Programme at the University of Hong Kong, the internet has become increasingly important as a source of news for Hong Kong people. The percentage of respondents who used the internet as a source of news grew from 5.7 percent in the year 2000, when the survey started to include the internet, to its highest level of 20.8 percent in May 2013. The figure fell slightly to 19.6 percent in April 2014. However, its position as the third main sources of news—behind television and newspapers—has not been challenged since 2009 when it first surpassed radio.

Further, the gap between newspapers and the internet narrowed significantly between May 2013 and April 2014. It fell from 4.6 percentage points to 3.4. Almost half of all respondents said they obtained news from the internet at least on one occasion.

THE BLOSSOMING OF ONLINE PUBLICATIONS

The period since 2012 has seen a blossoming of internet news sites. They add to the sites which have been in existence for several years, notably Inmedia, MyRadio, Citizens' Radio, Delight Media Hong Kong and SocREC. At least 11 new sites have been established, including news portal Bastille Post, content curator The House News, post852, Hong Kong SOW and the internet radio station D100, which is run by former talk-show host Albert Cheng. Two other sites—United Social Press and Tai Kung Pao—act more like advocates focusing on local social movements and labour news from around the world. Other news sites include VJ Media, Passion Times, Urban Diary and most recently Local Press.

These sites are mainly run by former journalists and commentators from mainstream media, social activists and college students. Some have established themselves in the market, while others struggle for survival and even only operate on Facebook or the site "livestream". Their business models range from commercial to social enterprise and non-commercial. They have in recent times gained attention from the public, the professional media sector and even political leaders. Marginalised sectors, including the grassroots, and those seldom covered by the mainstream media now have more channels to seek coverage. The secretary-general of the Confederation of Trade Unions, Mung Siu-tat, told a forum in March 2014 that their activities, usually underplayed by the mainstream media, are now covered more by the new media and he himself can post event photos on social media.

Prominent columnist Joseph Lian wrote two articles in early 2014 on the online news media. He noted the increasing political and financial pressures on the traditional media. He argued that the new media can bring about change and confront pro-establishment newspapers and parties. By comparing page-visit rates among some of the mainstream media, new media and government websites, Mr Lian found that the ranking of new online sites such as The House News and Passion Times were higher than for the government website, GovHK, and the *Hong Kong Economic Journal* website. Moreover, the websites of the *Economic Journal* and *Ming Pao Daily News* declined, while five new media websites—The House News, VJ Media, Passion Times, D100 and Inmedia—rose in the three months before February 2014. He concluded that everyone should safeguard press freedom, which he said was under ruthless suppression, but that the new media certainly had a role to play in upholding freedom of expression.

ONLINE NEWS HAS ITS LIMITATIONS

The online media has to be scrutinised in detail. A study by Dennis Leung and Francis Lee of the Chinese University of Hong Kong, titled "Cultivating an Active Online Counterpublic: Examining Usage and Political Impact of Internet Alternative Media", shows that while readers of newspapers seldom overlap, this is not true for viewers of online news. According to their study, the percentage of people who visited the four popular online sites—The House News, Inmedia, VJ Media and Passion Times—were 5.3, 10.6, 3.5 and 5.9 percent respectively. If the

viewers are exclusive, the total percentage of visitors should stand at 25.3 per cent. However, they overlap so much that only 13.9 percent of the interviewees visited at least one of these four sites.

Further, although the daily page-visit rate of certain online news sites is higher than for some traditional ones, the rate for the *Apple Daily* website, which stood at 40 million at the time of writing, was 179 times the total number of visitors to the five popular websites cited by Joseph Lian. More than half the page visits to the *Apple Daily* site came through mobile apps, whereas the five online websites counted only visits made through a personal computer. However, *Apple Daily's* PC supremacy is undoubtedly unbeatable. This shows that a website supported by a traditional news outlet can excel through established credibility and a wide range of news, and that content—as the saying goes—remains king.

Having said that, the “content is king” principle remains true for all online news media. The five popular online news websites cited by Joseph Lian all focus on general news, in contrast with *United Social Press* and *Tai Kung Pao*, which concentrate on labour news. This is the basic difference between mass media and media outlets which cater to those sharing the same concerns. Of course, online news generally has fewer resources than the traditional mass media, which means it cannot produce as much news as the traditional media. This is especially true for investigative reporting.

ONLINE MEDIA RELIES ON TRADITIONAL NEWS

Further doubt may be cast on online news as a replacement for traditional news when one looks at the content of the former. Few online news websites have their own reporting teams. However, some—including Bastille Post, The House News and Inmedia—do have such teams and occasionally break stories. For example, Bastille Post revealed in February 2014 that a new newspaper—*Hong Kong Morning News*—would be launched, The House News disclosed that pro-establishment groups paid money to get people to attend a pro-government parade on New Year's Day in 2013 and Inmedia exposed land use problems at Mei Foo Sun Chuen in 2011.

However, most new media rely on the content of websites of traditional news outlets as their prime sources. They either copy the news from such outlets or edit it a bit before posting it on their own website. Copyright issues can arise, as in a dispute between Radio Television Hong Kong and online radio station D100 over the use of the government-owned broadcaster's material. New media outlets also often use news from traditional media as the basis for their commentaries. In fact, most new media outlets are heavy on commentary.

As Francis Lee of the Chinese University has rightly pointed out, most journalists do not agree that the new media can completely replace the social function of the traditional media.

It can also be argued that since most new media outlets rely on traditional news media as their prime source of information, they cannot totally make up for declining press freedom. In other words, they rely on the same material which may be subject to self-censorship pressures.

Also of importance is the credibility of the new media. Journalists have to abide by professional ethics including fairness and accuracy, elimination of distortion and the right of reply. The credibility of online news websites, just like that of their counterparts in the traditional media, must be built up over time. The online news media has a long road to travel in this regard.

Having said that, the credibility of at least one online news outlet is better than its traditional counterparts, which are facing declining credibility. According to a survey on credibility conducted by the Centre for Communication and Public Opinion Survey of the Chinese University of Hong Kong in January 2014, The House News ranked 10th among 21 newspapers. It came ahead of *Apple Daily* and all three pro-Beijing newspapers. Its score was 5.76 on a 10-point scale, which put it slightly higher than the average score for newspapers, which stood at 5.72. However, it should be noted that The House News was the only online news website included in the survey.

Another significant issue for online news sites is funding. They now rely on self-financing, public donations, paid membership and acceptance of advertisements. So far, not a single online news media outlet has made money, except for the *Apple Daily* website.

Further, advertisers have yet to build up trust in the new media's influence on viewers, while sites lack revenue from adverts to better equip themselves or expand their services. There may however be light at the end of the tunnel in that international advertising companies are planning to allocate more funding to online media.

GIVE THE NEW MEDIA A FAIR CHANCE

The development of online news faces further restrictions when the government, which holds most information, denies access to the new media as well as citizen journalists. These sites and journalists are persistently denied access to official functions and government information services on the basis that “(they are) not registered media” and there is not enough room to accommodate them at government venues. The police also point to problems in identifying who is a journalist.

This prompted a sharp reaction from the online media. In January 2014, seven new media agencies held a press conference to fight for the right to conduct interviews. For example, they cited unfavourable experiences caused by the police during live reporting of social movements.

On the following day, the legislator for the information technology sector, Charles Mok, asked a question in the Legislative Council about the access problems faced by online media journalists. Secretary for Home Affairs Tsang Tak-sing replied: “(T)he fast and ever-changing development of social networking websites and the diverse means of online dissemination of information ... has made it difficult to get hold of the exact number of such media. Moreover, operating in different modes, such websites do not follow the traditional practice of the mainstream media ... there is no universal or clear definition in the [online media] community”.

Twenty years after online news first hit Hong Kong, the government has found it difficult to keep pace with developments in the sector. It is not an acceptable excuse to cite difficulties in differentiating between online reporters, citizen journalists and traditional reporters. Taiwan, for example, is already catering specifically to online journalists through efforts made by its National Development Council and Financial Supervisory Commission. With these examples, the Hong Kong government can no longer keep its head in the sand. Indeed, it can be argued that non-recognition of the online news media constitutes suppression of the right of the public to access information and may breach Article 19 of the International Covenant on Civil and Political Rights, which applies to Hong Kong.

HACKERS ERODE NEW MEDIA FREEDOM

The popularity of online news can be attributed to technological advances. According to figures released by the Office of the Telecommunications Authority, mobile data usage surged in 2008 and 2009. Usage in 2008 rose 2.4 times over the figure for the previous year at a time when smartphones came into use. It increased 2.35 times—to 127.6 megabytes—in 2009, when Apple Daily introduced its news app. The increase slowed in subsequent years.

However, there is a dark side to the technology. Although Hong Kong cannot expect a blackout of internet and mobile messaging services similar to what happened in the western Chinese region of Xinjiang after riots in Urumqi in 2009, some service providers may introduce screening policies.

Online media outlets also sometimes suffer from cyberattacks and bans by the Chinese authorities. In the year under review, several online media outlets faced distributed denial of service (DDoS) attacks, which froze their sites for a period of time. The most alarming was an attack on *Apple Daily*, both in Hong Kong and Taiwan, just before an unofficial referendum was launched in Hong Kong on nomination methods for the chief executive election in 2017. The group’s websites were brought down by a substantial 40 million hits a second, bringing the sites in Hong Kong and Taiwan to a halt for 18 hours. Information technology professionals said the attacks may have come from what they called the “national level”.

Almost all freedom of expression advocates condemned the attack, including the HKJA and the Next Media Trade Union. They said it trampled on press freedom and the people’s right to know. Democratic Party legislator James To said it constituted an attack on Hong Kong’s status as an international financial centre. The police were urged to take a more vigorous approach to finding out who was behind the attack.

Next Media owner Jimmy Lai said he would not be scared off. However, such attacks may have a chilling effect on website owners who do not have the resources to ward off “national level” attacks. One academic who wanted to remain anonymous said she would now think twice about placing sensitive articles online.

Apart from *Apple Daily*, The House News, Inmedia and post852 also faced attacks. The YouTube account of SocREC was hacked and over 1,000 social and political videos were

deleted. Such attacks hamper the development of these outspoken alternative media sites and create a chilling effect on potential website operators.

On the other hand, we must not ignore the fact that pro-establishment groups can also take advantage of online media. They have been making efforts to mount their own online campaigns. Facebook pages for local Hong Kong districts such as “Friends of Wan Chai” and “Friends of Sha Tin” were set up around the same time. They use the same style of profile pictures, forbid political messages posted by others and spend money to promote their pages. There have also been reports that pro-government legislators have bought Facebook friends or likes.

To conclude, the blossoming of online media can now certainly act as a possible way to defend freedom of speech and expression. It can also be a counterweight to self-censorship in the mainstream media and a general decline in press freedom. Yet, we must at the same time recognise that the online media has its own constraints and that it cannot replace traditional media completely. What is obvious is that the mainstream media and new media are in a complementary relationship and they should stand together to fight for press freedom and freedom of expression.

SECTION 6

Secretive government refuses to open up

The year 2014 marks the following milestones:

- The 248th anniversary of the world's first legislation on access to information promulgated in Sweden, namely the Freedom of the Press Act;
- The 24th anniversary of the promulgation of the Hong Kong Bill of Rights Ordinance, which states that Hong Kong people enjoy the fundamental right of access to information;
- The 3rd anniversary of the United Nations Human Rights Committee's general comment number 34 on the interpretation of Article 19 of the International Covenant on Civil and Political Rights, which applies to Hong Kong and is enshrined in the territory's constitution, the Basic Law. The comment states that Article 19 "embraces a right of access to information held by public bodies." It further states: "States parties should also enact the necessary procedures, whereby one may gain access to information, such as by means of freedom of information legislation."

Hong Kong people have yet to enjoy a legal guarantee of this fundamental right, even though many throughout the world have enjoyed it for many years. Moves are underway to study the issue and one government watchdog—the Ombudsman—has recommended that the government enact such legislation. But a recommendation does not mean action, and the government is waiting for a report on the issue from its Law Reform Commission, which may be some years in the making.

What complicates this issue is the secretive nature of the government, despite its claims to the contrary. This makes the need for legislation even more important but at the same time more difficult to achieve. The dilemma can only be solved by the government being willing to honour its obligations to its people under Article 19 of the International Covenant. This in turn requires the government to be willing to be monitored by the people.

OVER 90 COUNTRIES HAVE LEGISLATION BUT NOT HONG KONG

According to Right2INFO.org, a website launched by the international organisation, Open Society Justice Initiative, at least 95 countries in September 2013 had access to information provisions in their national or federal laws or decrees that allowed the public to request and receive government-held information. This figure climbs to 98 if three countries with actionable constitutional provisions are included. That would mean that over 77 percent of the world's population would enjoy the legal right to access government-held information.

Despite all these compelling facts and his pledge—made in an HKJA press freedom charter in 2012—to play an active role in the implementation of a law on freedom of information, Chief Executive Leung Chun-ying has failed to honour the legal rights of Hong Kong people to seek and receive government information. He told a lunch with foreign correspondents in that year that enacting such legislation was not a priority for his administration.

Since 1995, Hong Kong people have only been able to access public information by using a non-binding administrative code. The government can ignore requests without giving detailed reasons and can ignore complaints made to the Ombudsman about the code's implementation. Such flaws—long pointed out by the HKJA—prompted the Ombudsman to study whether a law was needed. It made just such a recommendation in March 2014 in the following terms: The SAR government shall "consider introducing a law to underpin citizens' right of ATI (Access to Information), covering information held by both B/Ds (bureaus and departments) and public organisations, to be overseen by an independent body with enforcement powers."

The Ombudsman came to this conclusion after listing many flaws in the way that the administrative code is implemented and worldwide trends for the enactment of legislation. He pointed to the code's lack of legal backing. He said that without legal standing, his decisions following complaints are only persuasive and sanctions for non-compliance are completely absent.

Second, the scope of the code is limited. Although it covers most departments, it only covers two public organisations. This inadequacy is serious because more and more public functions that used to be performed by the government have been hived off to public organisations, which are publicly funded and thus should be subject to public scrutiny.

The Ombudsman also found that officials misinterpreted the code and applied exemptions inconsistently. The HKJA has found that the government often uses the exemption for information that is held by a “third party” to deny access. For example, the HKJA lobbied the Fire Services Department to release information on emergency calls after deletion of personal data. However, the department used “third party information” as an excuse to turn down the request. Officials claimed that reporters may use the information they obtained to identify callers indirectly, thereby jeopardising privacy protection. The HKJA disagreed. Even the Privacy Commissioner held that such data was not personal and therefore not protected by the Personal Data (Privacy) Ordinance. The Ombudsman noted that privacy was another excuse used by bureaus and departments to deny the release of information.

ADMINISTRATIVE CODE HAS TOO MANY FLAWS

The flaws are many because the fundamental ideology of the code and a proper access to information system are very different. The Ombudsman’s study finds that access to information legislation usually “signifies the government’s reassurance to the people of its commitment to accountability, transparency and openness.” However, the code was promulgated to develop accountability and awareness of, as well as participation in, public services. Transparency and openness are not aims in creating the code. It is no wonder therefore that the code is used to ward off requests for public information and fails in many ways to fulfil the basic requirements of access to information legislation.

The government claims that 97.6 per cent of requests for information were met in full or in part by the end of 2013. However, the Ombudsman took a different approach. He pointed out that Hong Kong’s request rate per person was low, standing at 0.0004 in 2012, compared with some advanced countries like Australia, Britain and the United States, which stood at 0.0011, 0.0017 and 0.0021 respectively. This may relate to the narrow scope of the code and the possibility that the government counts only those requests made on specified request forms, while ignoring others.

The Ombudsman also reported that the number of complaints it had received about the code was 80 in 2013, a 78 percent increase over the figure for 2010. This contrasts with a 43 percent growth in access requests to the government over a two-year period ending in 2012.

The government response to the Ombudsman’s report was far from satisfactory. It said in a statement that the performance of the code was “on a par with that of overseas jurisdictions”. It also said that it would wait for the Law Reform Commission’s report before deciding whether to enact legislation. It was silent on recommendations made by the Ombudsman for improving the existing system, including increasing transparency. It said merely that it would consult stakeholders.

The HKJA questions whether the Law Reform Commission study is a government delaying tactic. The commission formed a sub-committee to study the access to information system in May 2013—after the Ombudsman announced his investigation. The commission has a well-known track record of taking several years—and in some cases—a decade to conduct studies. This consists of a sub-committee studying an issue, releasing a report for public consultation and then the full commission issuing its own report. The government is then under no obligation to accept the recommendations made in the final report.

The commission said the sub-committee had held eight meetings so far to study relevant systems in overseas jurisdictions and “is presently at the deliberation stage.” It has not yet considered whether legislation is needed in Hong Kong and no time frame has been set for completing its work. There are therefore serious doubts about whether legislation can be put in place by the time Leung Chun-ying completes his current term in 2017.

Dr Fu King-wa, an assistant professor in the Journalism and Media Studies Centre of the University of Hong Kong who monitors online public opinion in the territory, expressed concern that delays in reforming the access to information system would drag down Hong Kong’s status as a freedom of information centre. In February 2014, he urged the government to enact an access law and respond to the Ombudsman’s proposals for improving the code. He also urged the Law Reform Commission to consider the Ombudsman’s report and speed up its study.

Dr Fu is not the only academic who has complained that there is no legislation on access to information. Three academics from the Centre for Suicide Research and Prevention at the University of Hong Kong aired their difficulties in gaining access to public data. Professor Paul Yip and two other researchers said limits on the free flow of information would render public

discussion superficial. They also said it prevented the community from turning data into knowledge, which they said was a force to improve government efficiency.

ACCESS SYSTEM ALSO REQUIRES ARCHIVE LAW

The right of access to information is meaningless without a comprehensive and professional archive system. The Ombudsman conducted a study of the existing public records management system and recommended that the government should enact a law to keep archive management in good shape. The Ombudsman's report highlighted many inadequacies in the existing system, including a lack of legal backing and effective measures to ensure compliance and transparency. It also found that the scope of the current system is limited, including failure to manage electronic records.

The Ombudsman said that legislation could provide a framework for setting legally binding rules for regulating public records management and protecting public records for public access and heritage preservation. He said it would also reassure people of the government's commitment to accountability, transparency and openness.

The government once again used an ongoing Law Reform Commission study on the issue as an excuse not to take immediate action. It did however promise to implement improvements proposed by the Ombudsman.

A former government archives director, Simon Chu, expressed deep disappointment about government delays in taking action. He questioned whether the government was hiding something from the public. The chairman of the Archives Action Group, former judge William Waung, suggested that the archive law could put policy discussion under scrutiny, thereby forcing officials to be more cautious. He cited the case of political reform and the election of the chief executive by universal suffrage. He noted that people were being kept in the dark about the role of Beijing in government discussions about the implementation of universal suffrage.

GOVERNMENT REMAINS SECRETIVE OVER INFORMATION

Journalists have been complaining for several years about the growing secretive nature of the government. The HKJA's press freedom index revealed considerable unease over the government's performance in releasing information of public interest. It rated the attitude of journalists at 3.7, while the public rating was five. Journalists also felt that principal officials were far from frank and sincere in answering media enquiries. As many as 74 percent of interviewees set their rating at between 0 and 4 out of 10, where zero represents an evasive answer and 10 a truthful answer.

The HKJA publication, *The Journalist*, conducted a study in 2010 and found that the government was using selective background briefings for reporters rather than formal press conferences to get its message across. The situation has not changed much and may indeed have worsened in the year under review.

A writer for this annual report used the same methodology as *The Journalist* used four years ago to check on current trends. A search of the WiseNews aggregation database found that "sources" were quoted in 2,620 articles in Chinese-language newspapers and 456 articles in English dailies over a three-month period from March 2014. This came out at an average of 28.4 and five articles per day. The average in 2010 was 29.8 and 3.8. The increase for English-language dailies is significant.

Among the three English-language dailies included in the study, the use of sources was most widespread among the *China Daily* Hong Kong edition (210 articles) and the *South China Morning Post* (194). Quite a number of reports focused on government explanations, including the feelings of government officials about the appointment and resignation of the head of an inquiry examining delays in building a high-speed railway to Guangzhou.

The worst case involving the use of sources amounted to smear tactics. This happened in June 2014, outside the period studied by the writer. After some protesters tried to storm the Legislative Council complex, Commercial Radio and TVB quoted "government sources" as naming six organisations taking part in the incident and suggesting that the attempted assault may be a precursor to the Occupy Central civil disobedience movement. The sources further suggested that the so-called radical organisations may hijack the movement.

The two media organisations reported the sourced comments without giving the accused the right of reply. Newspapers also reported on what the sources said and some allowed the accused

to make comments. It later emerged that some of the information given by the sources about the names of organisations or even their existence was wrong. This prompted the main protest groups to hold a news conference the following day to reject the claims.

The writer of this annual report also found that the government conducted at least three background briefings and 20 press conferences in the three-month period from March 2014. The ratio between selective background briefings and press conferences was 13:87, which looks far better than the ratio of 35:65 in 2010.

However, this is not all it seems. First, the press conferences were mostly about operational issues, not government policy. Half of the press conferences were held by the Customs Department on the seizure of various items. The police held nine percent of the press conferences, focusing on crowd control for the annual June 4th candlelight vigil and the arrest of suspects over the assault on former *Ming Pao* chief editor Kevin Lau. The only press conference held by a policy secretary—Transport and Housing Secretary Anthony Cheung—was not about a policy issue, but rather the results of the government investigation into the marine tragedy off Lamma Island in 2012.

The three background briefings all involved important policy issues, which should have been dealt with in open press conferences, at which journalists could comprehensively question officials. The briefings involved the Secretary for Commerce and Economic Development over his denial of involvement in a ruling that Hong Kong Television Network would face severe restrictions over its plans for a mobile television service (see section 4), the creation of a new Innovation and Technology Bureau and revised rules on the implementation of double stamp duty rates on property purchases.

These examples do not include background briefings held by the Urban Renewal Authority on changes to its demand-led redevelopment scheme because the body is a statutory body. However, its decisions affect a large number of people, especially among the grassroots.

FORMER CHIEF SECRETARY HITS OUT AT CLOSED-DOOR BRIEFING

In May 2014, Chief Secretary Carrie Lam told journalists that the government was rejecting a proposal from a pan-democratic alliance for a three-track approach to nominations for chief executive candidates for the 2017 elections. The approach included public nomination. The announcement was made at a lunch gathering with journalists, which was held behind closed doors. Mrs Lam agreed to be quoted, but she did not allow recording in any form. Former chief secretary Anson Chan said it was not appropriate for Mrs Lam to use an informal and closed-door format to make such an important announcement. She further said the arrangement showed a lack of respect for those who had submitted views during a consultation exercise on the 2017 elections.

Mrs Lam's spokesman said the arrangement was made because she had received so many interview requests and wished to deal with them in one go. However, the spokesman did not say why a formal press conference could not be held.

There has been another development over the year in review. Top officials have taken to writing blogs, instead of facing direct questions from journalists. In the three-month period from March 2014, policy secretaries wrote at least 49 blogs. One of the most industrious was Financial Secretary John Tsang, who wrote one blog every week. It would not have been controversial if the content was light. But important messages were sometimes sent out. This was particularly true for Mr Tsang, who in one blog warned that Hong Kong should prepare for budget deficits. The problem lies in the one-way nature of the medium, in that reporters are unable to ask questions or seek elaboration.

Policy secretaries also resorted to stand-ups to explain issues. A total of 168 stand-ups were held in the three-month period. This allowed the officials to make a brief explanation and maybe take a few questions. They would then walk away as reporters were still shouting questions. Many of the stand-ups would have been more appropriate as full press conferences. They included, for example, stand-ups by the Environment Secretary on future power generation sources and the Secretary for the Civil Service on a proposal to increase the retirement age for government workers.

GOVERNMENT ABANDONS PLANS FOR STALKING LAW

There was some good news for journalists in June 2014, when the government announced that it intended to shelve plans to enact legislation outlawing stalking, citing “no favourable conditions” for pursuing the plan. Such a law was first proposed by the Law Reform Commission in 2000. The government released its own consultation document on the issue in December 2011.

Journalists were concerned that an all-embracing stalking law would restrict their legitimate activities and in particular investigative reporting. The government had proposed a defence of “the pursuit of the course of conduct (being) reasonable in the particular circumstances”. However, the HKJA found this defence unacceptable and proposed that narrowly defined anti-stalking provisions could be included in existing legislation, such as the Domestic and Cohabitation Relationship Ordinance, which deals with domestic violence issues.

Legislative councillors attending a briefing session tended to agree with the HKJA’s stance. The government’s Undersecretary for Constitutional and Mainland Affairs, Lau Kong-wah, said: “We will take into account members’ views at the panel meeting and make a final decision on the way forward.”

HKJA chairperson Sham Yee-lan welcomed the government decision. She said: “If the government indeed shelves the proposal, it will be the one good thing Chief Executive Leung Chun-ying has done for the media in this adverse time.”

However, some groups were unhappy. Privacy Commissioner Allan Chiang said criminalising stalking was long overdue as existing laws were insufficient to protect victims. The Performing Artistes Guild also expressed disappointment, saying a stalking law would have protected musicians and actors from the paparazzi. The HKJA however feared that such a law would infringe freedom of expression and assembly and restrict entertainment reporters from carrying out their legitimate reporting activities.

There was partial good news on another front—changes to the copyright law. The government announced that parodies and comments on current affairs would be exempt from the revised law as long as they met “fair use” criteria. The government dropped a previous bill in 2012 because of opposition from internet groups and satirists who were worried that it would limit freedom of expression. However, the head of one website, Golden Forum, said many in the online community remained worried because a judge would make a final judgement on whether copyright had been infringed based on the “fair use” criteria. Critics said there should be a total exemption for all derivative works.

ACADEMIC FREEDOM UNDER THREAT ... YET AGAIN

An assault was launched on academic freedom in March 2014. A Hong Kong member of the Chinese People’s Political Consultative Conference (CPPCC), Peter Lee, complained about polls conducted by University of Hong Kong academic Robert Chung on the chief executive’s popularity. He made the complaint in front of a senior Chinese leader during the CPPCC’s annual session in Beijing. He also suggested that pro-government organisations should finance and commission their own surveys on government popularity. Lee is the son of Hong Kong property tycoon Lee Shau-kee.

Central Policy Unit head Shiu Sin-por and Executive Councillor Cheung Chi-kong also questioned the methodology of the polls, which are conducted on a regular basis to track the chief executive and the government’s popularity. However, Dr Chung rejected the accusations, saying: “A society’s chief must be subject to scrutiny by scientific social research”. He also noted that the methodology he used is a common polling technique.

Support for Dr Chung came from within the government. Its number two, Chief Secretary Carrie Lam, said poll findings were useful to the government. Executive Councillor Fanny Law said she found the university’s polls to be fair, although at the same time she called for greater transparency. The University of Hong Kong released a statement supporting academic freedom, which was taken as indirect support for Dr Chung.

This was not the first time Dr Chung had become embroiled in controversy over his polling. In the year 2000, he accused the then chief executive, Tung Chee-hwa, of giving him a clear message—through a special channel—that his surveys on Mr Tung’s popularity were not welcome and should stop. A public inquiry was set up. It raised serious concerns about the state

of academic freedom at the university, and prompted the then vice-chancellor, Professor Cheng Yiu-chung, to step down.

Dr Chung's polls came under attack again in 2011 and 2012 from a senior official in Beijing's liaison office in Hong Kong, publicity director-general Hao Tiechuan. He suggested that some Hong Kong organisations conduct polls to serve the interests of certain political parties and to influence public opinion. The university did not release any statement at that time to back the academic.

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 (2014-15)

Sham Yee-lan, chairperson; Shirley Yam, vice-chairperson; Chan Kin-kai, Chan Pik-ki, Ronson Chan, Cheng Mei-chi, Cheung Lai-sun, Chiang So-ting, Zoe Hung, Ben Lam, Eva Tsang

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