

**Advisory Service to Candidates on
Guidelines on Election-related Activities
in respect of the Chief Executive Elections**

Question and Answer Issued on 9 June 2005

The Electoral Affairs Commission has received an enquiry from a candidate about the contents of the Guidelines on Election-related Activities in respect of the Chief Executive Elections (“the Guidelines”). The substance of the question and the Commission’s reply to the candidate is now published for public information so that members of the public may have a better understanding of the Guidelines.

Question

Would the Commission clarify the contents of paragraphs 8.55 and 8.58 of the Guidelines on whether advertisements of support published by organisations or individuals would be treated as the candidate’s election advertisements and the expenses incurred counted towards his election expenses if the candidate had no knowledge of and had not given consent to the publication?

Answer

- (a) The Electoral Affairs Commission considers that insofar as the candidate had no prior knowledge of and had not consented to the publication and had not authorised the incurring of the expenses for the advertisement or its publication, the expenses involved cannot be treated as his election expenses and need not be included in his election return. The crux of the matter for the candidate is whether he had the knowledge, had given the consent or had made the authorisation, and these are all matters dependent on the factual circumstances of each particular case.

- (b) The interpretation of election expenses and their ambit is within the exclusive function of the Independent Commission Against Corruption and the Department of Justice, and our view must be deferred to theirs.

Supplementary Information

The requirements for the advertisers to incur election expenses with the authorisation of the candidate are laid down in section 23 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554). Paragraphs 8.56, 16.9 and 16.33 of the Guidelines are also relevant.