



Hong Kong
Women Professionals
& Entrepreneurs
Association Limited

香港女工商及專業人員聯會有限公司

Marina Wong, JP
Chartered President
黃汝璞
創會會長

Caroline Mak
Immediate Past President
麥瑞潔
前任會長

Executive Board Members
執行委會

Agnes Koon
President
管胡金愛
會長

Rebecca Choy
Vice President
蔡美碧
副會長

Angel Hon
Vice President
韓淑儀
副會長

Sandra Mak
Vice President
麥黃小珍
副會長

Helen Kan
Honorary Secretary
簡吳秋玉
名譽秘書

Mary Lam
Honorary Treasurer
林康繼弘
名譽司庫

Lilianna Au
區艷麗

Christine Koo
顧張文菊

Sylvia Lee
李舜明

Pamela Mak
麥美儀

Angela To
杜錦然

Grace Tse
謝佩欣

Katherine Yau
邱何恩德

Team 4

Constitutional and Mainland Affairs Bureau

12/F., East Wing

Central Government Offices

2 Tim Mei Avenue, Tamar

Hong Kong

29th March, 2012

Dear Sir/Madam,

Response Paper on Stalking Consultation Paper

In response to the Consultation Paper on Stalking which was published in December, 2011, members of the Hong Kong Women Professionals & Entrepreneurs Association (HKWPEA) have studied and exchanged views with regard to the proposal from the Consultation Paper before presenting our consolidated response for submission to the Government.

Enclosed please find our HKWPEA's response paper to this Public Consultation Paper on Stalking for your kind perusal. For any further enquiries or information, please do not hesitate to contact me at 2882-2555.

Yours faithfully,

Mrs. Agnes Koon

President

Hong Kong Women Professionals & Entrepreneurs Association

Hong Kong Women Professionals & Entrepreneurs Association (HKWPEA)

Response to Consultation Paper on Stalking

March, 2012

The Hong Kong Women Professionals & Entrepreneurs Association (HKWPEA) was established as a non-profit organization in September 1996 by a group of local women professionals and entrepreneurs. These include women professionals, business executives and entrepreneurs who have come together with the following objectives, namely: 1) developing a strong supportive network; 2) creating practical and innovative learning and business opportunities for themselves and for others and 3) promoting high professional standards within the community. Based in Hong Kong, the HKWPEA reaches out and establishes relationship with counterparts in Mainland China and abroad. Ranking high on the Association's agenda is timely response to the consultation papers of the HKSAR Government on various policy issues through the support of the Public Affairs Committee.

The HKWPEA has been taking a proactive role in responding, studying and stating our suggestions on any current public issues that will have major impact on the well-rounded well-being of the Hong Kong community. Last year, we have expressed our views on the Healthcare Reform 2nd Stage Consultation as well as the Competition Law.

We have been aware about the Consultation Paper on Stalking as presented by the Constitutional & Mainland Affairs Bureau, and initially we would like to have a direct view exchange with the Secretary or any of the team members from the Hong Kong SAR Government involved in this public consultation process. With the advice from the Bureau that a face to face discussion with the HKWPEA members may not be technically feasible due to the fully packed schedule of the Bureau officers, our Executive Committee members including the chairperson of our Public Affairs Committee eventually have attended one of the 2 duplicate forums organized by the Bureau where issues of Stalking consultation process were highlighted.

As a women professional and entrepreneur body with members from various sectors including the multi-media and communications industry, our members share the following views and values in terms of our response to the proposed Consultation Paper on Stalking:

1. We believe human rights and privacy of each individual needs to be respected and protected under all circumstances.
2. While "Stalking" may be described as "a series of acts directed at a specific person which, taken

together over a period of time, causes him/her to feel harassed, alarmed or distressed”, any stalking behavior may escalate from what may be initially just annoying , alarming to the level of dangerous behaviour, including potential violent or even fatal acts. In general principle, we do support the initiative to consider legislate against the act of “Stalking”.

3. However, there are a couple of grey areas or controversial issues requiring further discussion and the public opinions from different experts or stakeholders, as we need to balance the public interests, interests of the community as a whole as well as individual rights.
4. Overall, we support considering the act to legislate against the act of “Stalking”, but there are indeed some concerns and comments as follow.

Our comments below represent views that are being held from a cross-section of HKWPEA members who are holding significant positions in both the public and private sectors in Hong Kong with experts and leaders in various fields, especially those working in the multi-media and public relations sector, as well as members working on the best interests for women in the community:

1. Access to information for the public interests or interests of the community as a whole

One of the main controversial issues or sensitive area which needs further discussion with regard to the consideration of legislating the act of “Stalking” is the optimal balance of the public interest for press freedom” with particular reference to the journalists or people working in the multi-media profession.

The implementation of the law against “Stalking” needs to ensure that no one will be abusing this legislation to oppress any “press freedom” or prevent any investigational activities meant for the best benefits of the society or community as a whole.

2. Definition of “Stalking” within the anti-stalking legislation

While the Law Reform Commission (LRC) considered the objectives of anti-stalking legislation include stopping threatening and harassing behaviour which disrupts normal life for the victim and preventing the escalation of the aforesaid behavior into violence, our members suggested that the meaning of “threats” and “disruption” needs further fine definition as these could always be subjective for different individuals, especially if the act of “apparent stalking” is part of a genuine investigational activity cared by a bona fide journalist for the public interest of the community, and we need strike a balance- on one hand, to prevent any abuse of the legislation against the multi-media or public relations professionals, and on the other hand to protect anyone from any unnecessary or unreasonable stalking behaviour.

3. The legislation leading to potential mental treatment to stalkers in appropriate cases

Again, this requires further fine definition and open discussion, and the further expert opinion from the medical professions, especially the psychiatrists and clinical psychologists. It is reckoned that the journalists or multi-media professionals are quite concerned about this implication from the future legislation with regard to “Stalking”, as while one is paying his/her duty such as in the case of the journalists asking a single question repeatedly directed towards the interviewee who refuses to make any clarification or even hide himself/herself from the public if he/she has done anything wrong. The protection of public interests in this case will then be mistreated as an act of “Stalking”.

4. Protection against women’s rights

Taking into account the views of some women groups and as a women association, we suggested that it may be more sensible to include the anti-stalking provision be included in the Domestic and Co-habitation Relationship Ordinance rather than enacting a completely new law as the current mentioned activities from the public consultation paper are mostly vaguely defined, and this will probably be up to individual interpretation and definition for a lot of times.

5. Special concerns for domestic issues

Following our suggestion of consideration of incorporating the more clearly defined stalking activities with particular reference to specific scenarios, concerns from divorcees being if their ex-partners are escaping from any liabilities with irresponsible acts, this might have further implication with the enactment of the Stalking Law especially if the proposed” Joint Parental Responsibility Model” by legislative means is going to be implemented for joint child custody and access in the days to come. This will make the application of legislating against “Stalking” an even more confusing and complicated matter.

6. The respect of press freedom and protection of the media or public relations profession

With regard to defence for a defendant who was charged with the offence of harassment to show that the conduct was pursued for the purpose of preventing or detecting crime, under lawful authority or it was “reasonable” in the particular circumstances, our media and public relations professional members voiced further concerns, again with regard to the definition of “reasonable”, and the definition of “prevention or detecting crime”. This will have potential impact on any restriction of press freedom when a journalist or a media worker is performing his or her duty, or in turn, the journalists might be “stalked” by government officials to “prevent or detect any crime” or that this particular “stalking” act against the journalists might be counted as

“reasonable”.

Conclusion

In principle, we do support the proposed Public Consultation on Stalking – on one hand to protect each person’s human right and one’s own privacy, but on the other hand, we need to balance the public interests in general for the society and the community, with particular reference to press freedom or any potential limitation upon those working in the multi-media or public relations profession. At the same time, we need to explore whether there will be any potential loopholes when the proposed legislation is going to be applied to any domestic issues or specific scenarios.

At the moment, it seems that the current proposal has not provided sufficient details with regard to any clear definition of any individual scenarios, the definition of “reasonable conduct” or “prevention or detection of crime” when a defendant is defending the charge of the offence of harassment. Therefore, we propose this consultation should be further prolonged with a more thorough and open discussion among all the stakeholders, members of the relevant professions within the community in order to achieve the “win-win-win” situation – law-makers are comfortable with the enactment of the law, while ensuring protection of individual human rights and also the protection of the media and public relations workers with sustainability of press freedom in the Hong Kong community.