



ONE COUNTRY, TWO NIGHTMARES

Hong Kong media caught in ideological battleground

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Introduction and recommendations

The year 2017 will mark the 20th anniversary of Hong Kong's return to China. The return was premised on the territory enjoying a high degree of autonomy under the one country, two systems principle. The past year has seen this concept seriously threatened by a spillover to Hong Kong of Chinese ideological control.

The title of this report—*One Country, Two Nightmares*—reflects troubling times for Hong Kong. On the one hand, it is symptomatic of ever deeper incursions by Beijing into the territory's autonomy. On the other, there is the self-inflicted fear on mainland China's part—arguably unjustified—that this same autonomy and Hong Kong's systems could infiltrate into the greater part of the country and ultimately threaten its absolute control.

The landmark incident over the past year has been the disappearance of five Hong Kong booksellers who published and distributed books critical of China and the Communist Party of China. All five were detained in mainland China. Four have since returned to Hong Kong, with one of them, Lam Wing-kee, going public to decry threats to the 'one country, two systems' principle.

What Lam did in Hong Kong was perfectly legal, but mainland Chinese law enforcement authorities handled his case according to their own regulations.

The bookseller told a packed news conference: "This is not just about me. This is about the freedom of Hong Kong people."

The disappearance of the five booksellers—and the attempt by Beijing to suppress the publication of critical books—has been symbolic of the deteriorating political environment in the wake of an ideological crackdown in mainland China led by President Xi Jinping. This has had an undoubted adverse impact on freedom of expression and press freedom in Hong Kong.

The political atmosphere in Hong Kong has also deteriorated as a result of a number of internal issues. The pan-democratic camp in the territory has splintered further, with the rise of localist groups and a party advocating outright independence for Hong Kong.

Localist protesters were involved in disturbances in Mongkok in February 2016—on the first day of the Lunar New Year. At least four journalists were injured during the clashes or in their immediate aftermath, including one who was beaten by police after he was ordered to come down from a bus from which he was viewing events. Regrettably, no officers have been charged in connection with the assault.

The disturbance prompted calls by some for Hong Kong to enact national security legislation under Article 23 of the Basic Law. The calls for the legislation, which would have a serious effect on freedom of expression, came from former Central Policy Unit head Lau Siu-kai and Beijing-based academic Rao Geping. Hong Kong's security minister Lai Tung-kuok said in reply that the government stance on the issue was unchanged—that there was no intention to take action during its current term, which ends in June 2017.

Academic freedom also took a battering during the year under review. While the appointment of a liberal scholar, Johannes Chan, to a senior University of Hong Kong managerial post was blocked apparently for political reasons, the institution applied for an injunction to gag the media and the public from disclosing details of all its council meetings. The Hong Kong Journalists Association has been fighting the case in court. The judgement, which has yet to be delivered, will have an immense impact on press freedom.

It is clear that Hong Kong's freedoms have been influenced by forces in mainland China. Freedom of expression and press freedom, as the bedrock of all other freedoms, have been the first to feel the effect. This has been reflected in the Hong Kong Press Freedom Index, which was compiled from survey results obtained from journalists and the general public. The 2015 index dropped 0.7 points to 38.2 for journalists and 1.4 points to 47.4 for the general public—showing a decline for a second consecutive year.

The figures for those believing that press freedom had worsened over the previous year were more alarming. A total of 85 percent of journalist respondents thought this was the case, while 54 percent of public respondents believed likewise.

HKJA chairperson Sham Yee-lan expressed concern that the all-time low for the Hong Kong Press Freedom Index showed that press freedom was being eroded at its roots and that its enjoyment by the public was at stake.

Challenges continue to face the media: continuing violence against journalists by both protesters and the police, the continuing refusal of the government to open up by holding more press conferences and enacting freedom of information legislation, its questionable policy on the granting of television and radio licences and its refusal to give accreditation to online and student reporters.

The latter point prompted the HKJA to make a formal complaint to Ombudsman Connie Lau, calling on her to launch an investigation into the refusal of the government to allow online journalists to attend its media events and access its news feeds. This has become a more important issue with the blossoming of online news websites, which often give an alternative take on news coverage as critics accuse the traditional media of shying away from contentious issues. Reporters from such sites have been barred from government facilities, including the election centre for a Legislative Council by-election in February 2016.

Given these serious concerns affecting the industry, there is a clear need for the Hong Kong government to take more concrete steps to protect freedom of expression and press freedom as set out in the Basic Law, the Hong Kong Bill of Rights Ordinance and the International Covenant on Civil and Political Rights. In particular the government should take the following action as a matter of urgency:

- 1) Take a strong approach to protect the one country, two systems principle given the threats to Hong Kong's high degree of autonomy as promised in the Basic Law. The government must be seen to be safeguarding Hong Kong's systems, including respect for freedom of expression and press freedom, in its dealings with Beijing. Failure to do so will inevitably lead to the erosion of Hong Kong's rights and loss of confidence in the government.
- 2) Take all possible measures to ensure that journalists are able to carry out their legitimate reporting duties, especially during protests. It is an international norm that the performance of these duties during periods of social unrest is vital to the protection of human rights and may prevent law enforcement agencies from abusing their powers. It is also particularly worrying when police assault journalists, as happened during the Mongkok disturbance. Officers must be given clear instructions on how to handle journalists during protests with the aim of allowing them to carry out their duties freely. Police who assault journalists should also face prosecution and officers should take action against protesters who attack reporters - irrespective of their political leaning.
- 3) Give online and student reporters carrying out legitimate journalistic work equal access to government facilities and news feeds. Online news sites are becoming more important in Hong Kong as people, especially the younger generation, shy away from traditional media outlets. Governments in many other jurisdictions, including Taiwan and mainland China, recognise online journalists. It is time for the Hong Kong government to do the same.
- 4) Enact freedom of information and archive laws to ensure that Hong Kong residents, including journalists, have proper access to government information and documents. The access legislation should be based on the principles of maximum disclosure, limited and narrowly drawn exemptions and an effective and independent appeal mechanism. As this is a matter of urgency, the government should not wait for the results of a potentially lengthy study on the issue by the Law Reform Commission. It must act now.
- 5) Adopt an open way of dealing with the media. In recent years, the government has been holding fewer press conferences to make major policy announcements. Instead, ministers have been resorting increasingly to explaining their policies through internet blogs, which is a one-way form of communication. They should revert to the more open method of hosting press conferences, which allow journalists to press officials about policy decisions and the rationale behind them.

Further, media organisations should ensure maximum access to their archives so that journalists, academics and other members of the public can carry out proper research. This is particularly important given the failure of the government's access to information system, which is based on an administrative code which fails to give the public, including journalists, a legal right to access public information.

SECTION 1

China's ideological control spills over

As the Hong Kong Journalists Association (HKJA)'s 2013 annual report points out, China has implemented a policy "to regain the Hong Kong media" since the 1989 crackdown against the pro-democracy movement in Beijing. The policy refers to a campaign to exert a controlling influence over the territory's media so that it can be used as the Chinese government's mouthpiece.

The relative success of this policy is seen in the fact that the Chinese government or mainland corporations now have direct control or stakes in eight out of 26 mainstream media outlets—31 percent of the total. These are *Ta Kung Pao*, *Wen Wei Po*, *Hong Kong Commercial Daily*, *China Daily's* Hong Kong edition, *Sing Pao Daily News*, Phoenix Satellite Television, TVB and most recently the *South China Morning Post*, which came under the control of Chinese internet entrepreneur Jack Ma and his Alibaba group in April 2016.

Further, owners or news heads of more than 80 per cent of mainstream media have benefited from establishment appointments or awards.

China may also be seeking to make inroads into the internet world in Hong Kong, just as it has been doing in an aggressive manner on the mainland. This comes as new online news portals have been opening in Hong Kong. Some are thought to have backing from Beijing. (See section 2).

This came as further threats were made to the one country, two systems principle, which is meant to underpin Hong Kong's autonomy, as Beijing exerted influence and control over the territory. The most blatant example of this was the detention of five Hong Kong-based booksellers in mainland China. One, Lee Bo, was feared to have been abducted from Hong Kong in late December 2015 by mainland Chinese security agents.

The stringent Chinese policy on ideological control imposed by President Xi Jinping did not just spill over to Hong Kong, but also affected Hong Kong reporters working on the mainland. Greater control by Chinese state bodies and restrictions on interviews with critical academics and analysts made life more difficult for reporters from the territory.

'THE SEVEN SPEAK-NOTS' USHER IN FURTHER CONTROLS

When Xi Jinping was elected as general secretary of the Communist Party of China (CPC) in late 2012 and then chosen as the country's president in March 2013, there were high hopes that he would follow the example of his late father, Xi Zhongxun, who was a reformist. The hope was soon dashed when it was reported on the internet that the government had imposed a policy widely known as the "Seven Speak-Nots"—or "dangerous Western influences".

The policy came out in the open in May 2013—one month after it was decided internally. University professors were instructed not to teach seven subjects: universal values, freedom of speech, civil society, citizen rights, past mistakes of the Communist Party, crony capitalism and judicial independence.

Several days later, the general office of the party central committee issued a memo titled "Concerning the Situation in the Ideological Sphere". It confirmed the policy on the "Seven Speak-Nots", though in a more ambiguous form. The memo revealed that the policy had been incorporated into a policy on the censorship of online public opinion.

In the wake of controversy over the "Seven Speak-Nots", discussion and circulation of the directive were banned. Microblog accounts of several prominent liberal intellectuals and rights defenders were shut down. Critics rightly foresaw that tighter controls on discourse and ideology were looming even as they did not know at the time that the president had already delivered a landmark speech on ideological control.

TREND TOWARDS TIGHTER CONTROL CEMENTED

Xi made an important speech to the party's National Propaganda and Ideology Work Conference on August 19, 2013. It was subsequently referred to as the "August 19 speech". Xi stressed that "ideological work is an extremely important work of the party" and "propaganda and ideology work must consolidate the guiding position of Marxism in the ideological area and consolidate the common ideological basis for the united struggle of the entire party and the entire people." Xi called for all party members to "unwaveringly persist in the principle that the party manages the media, persist in politicians running newspapers, periodicals, stations and news websites, and strengthen education on the Marxist view of news."

To settle the argument of whether to serve the people or the party, Xi judged that "the party spirit and the people's spirit have always been consistent and united." This underlined his later assertion that the spirit of the people was represented by the spirit of the party. Therefore, according to Xi, serving the party was serving the people. This evolved later into the concept that maintaining the security of the party was equivalent to maintaining the security of the state. It became the underlying thinking behind a sweeping national security law promulgated in 2015.

Such absolute loyalty to the party and the maintenance of the party's power ran through Xi's speech to the party school in late 2015 and his tour of state media in February 2016. The slogan "state media surnamed party" exhibited by central-level media outlets was chilling because all media, including social media on the internet, were expected to pledge their support for the policy.

Inside the party, Xi called on all CPC members to toe the party line, thus unifying ideas and views. In the party's amended disciplinary regulations promulgated in late 2015, making "inappropriate" comments or challenges to the party's key policies and directions was prohibited and would be penalised. Critics considered the word "inappropriate" to be too wide and therefore open to abuse and likely to have a chilling effect on freedom of expression.

This latter trend was evident when outspoken property tycoon Ren Zhiqiang was placed on party probation for one year and had his Weibo account shut down after questioning the appropriateness of the "state media surnamed party" policy. The move doubtless served as a warning to all party members.

HARDLINE MAINLAND POLICY SPILLS OVER TO HONG KONG

Such central policy shifts might not have been felt in Hong Kong in the early years after the 1997 handover. However, the border dividing mainland China and Hong Kong became blurred after Xi came to power.

As Johnny Lau, a commentator on Chinese affairs pointed out, Xi is different from previous Chinese leaders in taking a more proactive approach. A case in point is Xi's call for all party members to "dare to draw the sword" in combating "universal values" and the power of the internet. He urged all members not just to fight back when under attack but "to go on the offensive and seize the front". With such an approach, the government's grip on freedom of expression tightened dramatically in mainland China and in Hong Kong.

Despite repeated verbal declarations that Beijing was upholding the one country, two systems principle, it has been seen as emphasising one country excessively, with its representatives in Hong Kong coming under fire for interfering too much in local affairs.

This resulted in a downward trend in the confidence of the Hong Kong public towards the principle. According to a regular survey conducted by the University of Hong Kong's Public Opinion Programme, net confidence in one country, two systems, which reached a peak of 60.8 in April 2008, dropped after mid-2013, reaching minus 7.9 in March 2016. The figure is derived from the percentage of those holding positive views about the principle minus those with negative views.

MAINLANDERS OCCUPY MORE MEDIA OUTLETS

An initiative called “The Great Overseas Propaganda Plan” was first revealed by the *South China Morning Post* in 2008. The Chinese government was said to have set aside 45 billion yuan, which jumped to over 60 billion yuan in 2012 according to mainland outlets, to expand its state media presence around the world with the aim of improving China’s image.

To achieve its aim, China was going to fight for the “right to speak” in a world dominated by Western countries. The government later found it was not enough to set up local branches of state media outlets overseas because there were few media organisations there willing to use their material.

Chinese representatives instead opted either to take over or buy a stake in local media outlets in a bid to influence their reporting. Reuters reported in November 2015 that at least 33 radio stations in 14 countries, including WCRW located near Washington DC, were majority owned by state-run broadcaster China Radio International (CRI).

This pattern can also be found in Hong Kong, though in a more indirect way. A major stake in dominant station Television Broadcasts (TVB) was transferred in 2011 from the founder, Shaw Brothers, to a consortium of non-mainland businessmen who are regarded as pro-Beijing or pro-establishment. Mainland Chinese media tycoon Li Ruigang then brought an undisclosed stake in the consortium in April 2015. Li is the chairman of China Media Capital (CMC). He is a former deputy general secretary of the Shanghai municipal party committee.

Less than half a year later, CMC, TVB and Warner Brothers Entertainment entered into an agreement to form Flagship Entertainment Group, a joint venture to invest in Chinese-language film production and distribution around the world. By doing so, China was hoping to channel its influence through cultural products, as a way to strengthen its soft power.

A similar path was followed by the *South China Morning Post* (SCMP). An announcement was made in December 2015 that mainland internet conglomerate Alibaba Group, founded by Jack Ma, would acquire the newspaper and all its media assets from the Kerry Group, which is controlled by Malaysian tycoon Robert Kuok. This was the first time that the 113-year old newspaper was owned by a mainland Chinese entrepreneur. The deal was completed in April 2016.

Alibaba executive vice-chairman Joseph Tsai said editorial independence would be respected and that coverage should be “objective, balanced and fair”. But at the same time, he signalled a strong view on China news coverage. In an interview with the *Post*, he said current news coverage of China was “neither complete nor healthy because all of them carry the Western angle”. He said the *Post* should put out “another angle”—a more objective one on China. “SCMP is uniquely positioned to help people around the world to understand China better,” he said. This is a tone often used by Chinese officials who complain that the Western media does not understand China well enough to accept their policy.

The HKJA expressed concern that the acquisition would “further compromise press freedom in Hong Kong”. The association was also concerned about whether the “other angle” suggested by Tsai would mean further restrictions on the *Post*’s reporting on China.

The Washington Post shared this concern a few days after the acquisition was announced. It wrote in an editorial that the future editorial independence of the SCMP “was bound to be cause for concern” because of “Ma’s close ties to the Beijing government—to whose censorship and other strictures he readily submits his various Web retail, messaging and other enterprises”.

The US newspaper further questioned whether the move was part of the “Great Propaganda Overseas Plan”. The editorial stated that the SCMP might be “about to be molded into a pseudo-private instrument of the Chinese state’s ‘soft power’, much as Alibaba itself has helped launder Beijing’s image and co-opt potential foes through a splashy stock offering in the United States. This would represent another step in China’s march not only to control the news that people in China can see but also, through media ownership, visa denials and other methods, to limit free debate about China throughout the world.”

Academic and China commentator Willy Lam, who used to work at the *South China Morning Post* before he left amid a dispute with then owner Robert Kuok over a China-related article, thought more mainland business groups may buy Hong Kong media outlets—a trend encouraged by the Chinese government for many years.

There have been reports that cable TV operator i-Cable may be a target for mainland Chinese businessmen. In March 2016, representatives of Wharf T&T, the owner of i-Cable and free-to-air operator Fantastic Television, mentioned that its telecommunication and entertainment businesses were under review. Chairman Stephen Ng did not rule out any possibility, including the sale of its telecom business. The market interpreted this as meaning that Wharf may sell i-Cable. Market rumours persist that several potential mainland buyers have contacted the group.

In March, listed company One Media Group announced that its controlling shareholder had been negotiating to sell his stake to a mainland Chinese state-owned enterprise. The group controls *Ming Pao Weekly* as well as a critical magazine *100Most*, which is popular among the younger generation. However, One Media Group does not own the daily newspaper, *Ming Pao*.

The upward trend of mainlanders investing in the Hong Kong media is worrying. Prominent current affairs commentator Chang Ping says that the “Great Overseas Propaganda Plan” is a brainwashing device orchestrated by an autocratic government and should not be tolerated. According to him, manipulation of the news by a government is an interference with the news, not its diversification.

A BODY BLOW TO HONG KONG’S AUTONOMY

China’s growing influence in Hong Kong was put into fresh perspective by the case of five missing booksellers. The most prominent was Lee Bo, who was thought to have been taken from Hong Kong to mainland China without his travel documents. The case was seen as a serious breach of the one country, two systems principle. Journalist and commentator Ching Cheong said he thought the case was related to a crackdown on the publication of sensitive books about Xi Jinping.

The five were all involved with a publishing house called Mighty Current and its related bookstore Causeway Bay Books. They published and sold books critical of China and the Communist Party. The first to go missing was Gui Minhai, who vanished from his home in Pattaya in Thailand in October 2015. Three others disappeared in Guangdong province later that month. Lee Bo vanished in late December. They all later turned up in detention in mainland China.

Reacting to Lee Bo’s case, an editorial in the Beijing-based *Global Times* newspaper said: “Powerful agencies across the world generally have their own ways to circumvent the law and make a person under investigation work with them”. This raised fears that Lee had been kidnapped by Chinese agents—an allegation that was not accepted by the Hong Kong police.

Some of the detainees later made televised confessions, admitting that they had illegally distributed unauthorised books on the mainland, prompting many to believe that the statements were forced. The return of four of them to Hong Kong, including Lee in March 2015, raised further questions, especially as some quickly returned to the mainland after asking the police to drop their missing-person cases.

One of the four, Lam Wing-kee, dropped a bombshell in mid-June 2016 when he went public on his plight. He revealed that he was detained after crossing from Hong Kong into neighbouring Shenzhen in October 2015 and was kept in Ningbo and Shaoguan until he was allowed to return to Hong Kong.

Lam said he had been questioned by a high-level investigation group about the sale of politically sensitive books to mainland customers and the authors of these publications. He said he was asked to bring back to mainland China a disc containing the names of those who bought books. He refused and then went public.

Lam said he had decided to speak out because the case jeopardised the one country, two systems policy. “This is not just about me. This is about the freedom of Hong Kong people. The Chinese government has forced Hong Kong people into a dead end,” he said.

The missing bookseller case raises fundamental questions about the one country, two systems principle, which should allow only Hong Kong law enforcement agencies to act within the territory. It appears that Lee was taken away by Chinese agents against his will without prior notification to or approval from the Hong Kong police.

The case has had a definite chilling effect on publishers of books dealing with sensitive Chinese issues—which might have been the intention of the mainland authorities. There were reports that publishers were less willing to handle such books following the disappearances.

In another development, Hong Kong-based military commentator Andrei Chang, who is also known as Pinkov, told the media in April 2016 that he had decided to emigrate to Japan because of the Lee Bo case and what he called the non-existence of one country, two systems. He also applied to renounce his Chinese nationality so he would not be denied consular protection by Canada, of which he is a national. China rejects dual nationality and regards a Hong Kong Special Administrative Region passport holder as Chinese and therefore subject to Chinese law.

INTERNATIONAL COMMUNITY EXPRESSES CONCERN

Lee Bo's case aroused significant international concern. British Foreign Secretary Philip Hammond said in a foreword to a six-monthly report on Hong Kong released in February 2016 that Lee was probably “involuntarily removed” to mainland China. He called the action a “serious breach” of the 1984 Sino-British Joint Declaration which paved the way for Hong Kong's return to China.

The European Union stated in its annual report that the missing bookseller case had posed the “most serious challenge” to Hong Kong's Basic Law and the one country, two systems principle since the 1997 handover. It urged Beijing to restore the trust of Hong Kong residents and the international community in the arrangements concerning the city's autonomy. Beijing has reacted defiantly to such calls.

Media interviews with Lee Bo also raised concerns. The first televised interview with Lee Bo broadcast in February 2016 was conducted by Phoenix Television, Hong Kong's *Sing Tao Daily News* and mainland digital outlet Thepaper.cn. Almost all the questions were asked by the reporter from Phoenix TV, which is controlled by Chinese capital.

Lee claimed he was smuggled to mainland China with the help of a friend. But the statement contradicted a previous interview conducted after the disappearance of the other booksellers, in which he said he dared not go back to the mainland because the other disappearances had taken place at Beijing's behest.

Lee was later interviewed by *Sing Tao* on his brief return to Hong Kong. The newspaper is owned by Charles Ho, who is a member of the Standing Committee of the Chinese People's Political Consultative Conference.

HONG KONG REPORTERS FACE RESTRICTIONS IN BEIJING

Hong Kong reporters learned what the stricter media environment was like when they attended the annual sessions of the National People's Congress and the Chinese People's Political Consultative Conference in Beijing in March 2016. A directive was issued that 21 sensitive topics should not be covered. The *South China Morning Post's* Weibo and WeChat accounts in mainland China were suspended only days after the sessions opened. No reason was given, but there were suggestions that it was related to an article about the Cultural Revolution, which was among the banned topics.

A physical assault also took place. On March 15, a photographer from *Ming Pao Daily News* tried to take a photo inside the Great Hall of the People of Meng Jiangzhu, who heads the party's political and legal affairs commission. The photographer was obstructed. When another reporter tried to ask Meng about the Lee Bo case, Meng's bodyguards pushed the photographer aside, jabbing him in the ribs. The bodyguard reportedly said: “Don't yell! Do you believe I can kill you?” When the photographer asked for help from Meng, the bodyguard pushed the photographer further away and covered his mouth with his hand.'

Hong Kong-based reporters working in Beijing are also affected by the tighter media controls. According to some Beijing correspondents from Hong Kong, they are now under the management of the Ministry of Public Security, in addition to the Foreign Ministry, the Hong Kong and Macau Affairs Office under the State Council and the All-China Journalists' Association.

Without any public announcement, the reporters found out two to three years ago that they were under the security ministry because it was in charge of the residence registration system (*hukou* in Putonghua). They say that may explain why there have been more cases involving contact, visits and surveillance by public security officers. The presence of such officers makes media contact with interviewees, especially those who are sensitive in the eyes of the government, more difficult.

In the past half year or so, Hong Kong correspondents have found it harder to obtain interviews with academics and analysts. Some media-friendly experts declined interviews without the formal approval of a supervisor, which in effect meant that many interviews did not take place unless the interviewee followed the government line on an issue.

The Chinese Academy of Social Sciences was a case in point. Scholars who did not want to be named said they had received a directive asking them to obtain prior approval to deal with "foreign" media. Hong Kong media are apparently classified as "foreign media", which means that journalists from the territory now face new obstacles in performing their work.

SECTION 2

Online media becomes new battleground

The printed media is shrinking, while new digital outlets are coming into being. This picture has become striking in the year under review, especially with the rapid digitalisation of news organisations in the past year

In order to maintain their market share, traditional print media organisations are stepping up investment in online news departments. In a symbolic move, Next Media, a leading media group in the city, renamed itself Next Digital to reflect its future business direction. There have been reports that another major group, Oriental Press Group, will concentrate its resources on internet development after closing one of its dailies, *The Sun*. (See section 6.) *Am730*, a Chinese-language free daily tabloid which reports fairly good profits, is also planning to strengthen its online news department.

In another development, many online news agencies have emerged in the past 12 months. They are different from those which appeared four or five years ago in that they are no longer operating at low cost or linking up with social activist groups or political parties.

Instead, they are often led by traditional journalists who bring their professional habits. They are also not cheap to run and appear to be targeting specific audiences. Among the newcomers, FactWire emphasises investigative reporting, Inition Media targets “highly qualified” intellectuals and HK01 and KinLiu target general readers and focus on both online and print publications.

Indeed, the trend of online media start-ups led by professional journalists started earlier than 2015. Looking back to 2013, several online news websites were set up by journalists with different political stances as they sought to attract the younger generation. Bastille Post was one of them. It is an online newspaper established by former Sing Tao News Corporation chief executive Lo Wing-hung. Post 852 is another example. It was set up by former *Hong Kong Economic Journal* deputy editor-in-chief Yuen Yiu-ching in a bid to open up a space for critical opinions as he was dissatisfied with self-censorship in the traditional media. Orange News, which was launched by an affiliate of pro-Beijing Sino United Publishing (Holdings), joined the online media market in 2014.

There has been an extraordinary blossoming of online outlets in the 12 months under review. At least five new news websites went on stream in that period. The reasons for this trend are familiar—either the pro-establishment camp is seeking a greater say among the public or senior journalists are looking for new solutions for defending editorial independence amid dissatisfaction over the perceived self-censorship in mainstream media. The founders of English-language non-profit-making independent online media site Hong Kong Free Press (HKFP) and veteran journalist Ng Hiu-tung, founder of FactWire, are apparently motivated by the latter cause.

Both HKFP and FactWire were established through crowdfunding, which reflects the fact that some Hong Kong people are disillusioned with mainstream media and want more independent news. However, crowdfunding can only provide limited resources and the agencies tend to operate on a small scale. It is therefore not surprising that when some businessmen are investing millions in the traditional media industry, which to some is a sunset industry, people are questioning whether there is a hidden agenda behind investments in online media, especially at such a sensitive time with Legislative Council and chief executive elections just around the corner.

HK01 ATTRACTS SIZEABLE INVESTMENT

HK01, which claims to be a cross-media news agency taking online news as its main business and print as a side product, was launched online in January 2016. Its printed weekly newspaper, also called HK01, was first published two months later. The business has benefitted from the largest investment in recent years. It has been suggested that major investor Yu Pun-hoi, who used to own mainstream newspaper *Ming Pao*, has prepared HK\$300 million to run the business. HK01’s operating cost is HK\$60 million per year. Among its 300 staff, its middle and high-ranking employees

mainly jumped from *Ming Pao*, while other reporters were poached from other media outlets.

HK01 prides itself on its advocacy. “HK01 will express its opinions on various issues, prompt discussion and communicate among members of society, according to its own thoughts and belief. Its prime mission ... is taking the initiative to promote society’s reform and progression,” the outlet says.

How to marry such an approach with journalistic ethics remains a big question mark. Furthermore, when the whole online news industry is still looking for a successful business model, Yu made a disproportionate investment in launching HK01. It is no wonder therefore that critics are asking whether Yu has a “political task” and whether he is being backed by “red capital”—money from mainland China.

In answering this criticism, HK01 chief editor Lung King-cheong said there should be no colour to capital and the most important thing was how to add value to the investment. When asked about the disproportionate investment, Lung called on the public to compare the amount of money being investing in HK01 with the size of Yu’s overall business before asking about the source of the large investment.

INITIUM MEDIA DIGS FOR ITS OWN STORIES

Initium Media, an online media group established four months before HK01, managed to turn a new chapter in the professional online news media industry. It focuses on original stories and therefore does not curate reports, as some online outlets do. It hired 70 staff and has an estimated annual operating cost of HK\$18 million.

However, it does not attract as much attention as HK01. Part of the reason may be that although Initium is headquartered in Hong Kong, it is targeting Chinese people from every corner of the globe and focusing on the use of big data in its journalism. Moreover, the magazine writing style—with 3,000 to 6,000-word stories—has overturned the common understanding that the public wants short and sharp stories online. The problem is further exacerbated by its target of “highly qualified intellectuals” rather than ordinary netizens.

Like HK01, critics also suspect that Initium may have “red” connections. Executive chief editor Annie Zhang Jieping and main investor Cai Hua are associated with mainland China. Zhang used to work in the pro-Beijing media and Cai was among the “first generation” of Chinese people who studied overseas and returned to his home country to start his career. Cai is a partner in a law firm mainly providing legal services to Chinese companies wishing to list their shares in the United States. He did not deny in a media interview that he knows President Xi Jinping through his father’s connections. Yet he denied that Xi “suggested” setting up new media outlets and that there was a hidden agenda behind Initium.

According to Initium’s user figures, Cai has already met his target. Among the 3.5 million users, 40 percent are from Hong Kong, 40 percent from Taiwan and the rest from other places such as North America and Southeast Asia. But it is uncertain whether another of Cai’s targets—to break even by August 2018—can be accomplished. This all depends on income from advertisements and e-business and the sales performance of Initium’s website content.

AN OUTLET WITH NO STANCE, MAYBE

Compared with HK01 and Initium, Kinliu, an integrated online news website established in September 2015, has turned out to be less significant in Hong Kong, lagging behind HK01 in both scale and public impact. Like HK01, it offers both online and print services. Its *Kin Magazine* was initially published every three weeks but in March turned into a bi-weekly magazine. The free magazine is handed out in 90 locations across Hong Kong.

Sure Fit Inc, the owner of Kinliu, was set up by Hong Kong businessmen. It claims its principle is: “We are concerned about right and wrong only, not any stance.” However, it appears—from its website content—to favour the pro-establishment camp.

HK FREE PRESS THROWS DOWN THE GAUNTLET

In Hong Kong, the English-language media is dominated by the *South China Morning Post*, which has been published since 1903. However, its critics accuse it of being pro-Beijing and pro-establishment and therefore question whether it can provide independent news about mainland China and Hong Kong to English-speaking readers. This was a concern of British Hongkongers Tom Grundy and Evan Fowler, who founded Hong Kong Free Press (HKFP), the first independent English online media outlet in Hong Kong.

In order to bridge the gap between Chinese and English-language news and raise local and global understanding of Hong Kong and mainland China issues, Grundy and Fowler decided to raise funds through crowdfunding in May 2015. They managed to raise more than HK\$300,000 through the internet in several weeks and officially launched the website in June.

HKFP has relied mainly on citizen journalists and occasionally publishes its own stories. However, it faces funding problems and expanded its internet fundraising efforts in early 2016 to hire more reporters and advertising staff.

FACTWIRE CROWDFUNDS TO OFFER INVESTIGATIVE STORIES

FactWire, an unusual media agency focusing on investigative reporting, was also established through crowdfunding and came into being in March 2016. FactWire's founder, Ng Hiu-tung, said they would reveal all the facts behind important news through investigation and the use of big data. He stressed that the agency was established to reveal news, rather than just report it.

Ng set up a press photo agency called EyePress about 10 years ago. He wants to make his latest venture, FactWire, completely independent of financial sources, which he says can ensure that the agency has full editorial autonomy. He hopes the news he presents will no longer be influenced by the stance of investors or advertisers.

The enthusiastic results of FactWire's crowdfunding efforts showed once again the public demand for independent news coverage. FactWire raised close to HK\$4.6 million in just three months, which is 50 percent higher than its original goal.

However, FactWire is a small company with just eight reporters and researchers. Their first news story was published in late May 2016. It featured an issue rarely covered by the local media—nuclear safety issues arising from the construction of a nuclear power station near Hong Kong. It then went on to break a story in June about wealthy investors including a former senior government official developing waterfront property along a protected coastline. This latter story was picked up by the mainstream media.

All stories published in the first year will be offered free of charge to the public. It hopes that other media companies will pay for their stories after a certain period of time, thereby generating revenue for the company, which may give the outlet a boost given the limitations involved in crowdfunding.

MORE SPACE BEING CREATED FOR PRESS FREEDOM

The emergence of these new online media outlets is a result of the transformation of traditional media from print to internet platforms. Voices from the pro-establishment, pro-democracy and independent camps can all have a presence on the internet, which will expand the boundaries of freedom of speech.

However, as with the traditional media industry, those with large resources can invest more in online media, building bigger and more influential websites. But on the other hand, the low cost of operating such sites means that independent voices will continue to appear on the internet. Moreover, netizens are more inclined to opt for international or information websites, which reduces the influence of pro-Beijing or pro-establishment sites.

According to a study conducted by Baptist University assistant journalism professor To Yiu-ming in March 2016, among the top 50 most visited websites in Hong Kong, 19 are international and 16 local. Taiwan and mainland sites accounted for just 20 per cent of the total.

In terms of daily visitors, international websites received the biggest share at 6.44 million, followed by local sites at 6.36 million. By contrast, visitors to mainland sites and those operated by it in Hong Kong stood at 1.15 million.

For individual news outlets, *Apple Daily* came top, receiving 394,000 daily visitors or almost half of the total number among newspapers. Among purely online outlets, Stand News was top with 63,400 daily visitors. It was followed by Initium Media and HK01.

To concluded that the international perspective of Hong Kong people and market forces would offset the influence of mainland investment. This appears to show that Beijing's soft power still has a long way to go.

SECTION 3

Broken promises on media freedoms

The media and the government share a common goal of serving the public. The government uses different types of media to communicate and connect with the people. The media, as another important institution in society, serves as the eyes and ears of those monitoring the wrongdoings of the rich and powerful, in particular the government. Yet, there are fears that the government is placing serious constraints on the ability of the media to play this role.

Official inertia and policy deficiencies and failures are among the shortcomings that have stoked fears among journalists and the general public that the government is muzzling the press through its exercise of decision-making and administrative powers and day-to-day information dissemination arrangements. If left unresolved, this could pose a threat to the city's press freedom and weaken the industry's competitiveness.

On the face of it, there is no shortage of promises that the government will respect press freedom. During his 2012 election campaign to become chief executive, Leung Chun-ying was full of promises; he signed a press freedom charter drafted by the Hong Kong Journalists Association (HKJA). In it, he pledged to uphold press freedom, actively promote the drafting of a freedom of information law to nurture a more open social environment and not to push for the drafting of Article 23 national security legislation when there is no consensus in society. He has failed to deliver on all but the last promise, even though his term as chief executive will expire in June 2017.

Since he took power, Leung has largely avoided wading into the issue of press freedom and the media's role. Yet he gave a rare verbal confirmation of the importance of press freedom at the annual news award ceremony of the Hong Kong Newspaper Society on April 25, 2016. He said that press freedom was the bedrock of society and the government would uphold it. This was not just because, Leung said, his administration was obliged to do so but because press freedom was essential for Hong Kong to maintain its competitiveness and status as an international city. "Upholding press freedom is equivalent to upholding Hong Kong's lifestyle," he said.

RESPECT FOR PRESS FREEDOM AN EMPTY CONCEPT

Leung's "read-my-lips" pledge to support press freedom at the news award ceremony stood for only one day. On April 26, he fired a salvo at *Next Magazine* for sending two reporters to follow his daughter at Stanford University, where she was studying. Her daughter, Leung Chung-yan, hit the headlines after a bag she left at Hong Kong International Airport prompted a political row. The bag was delivered to her by airport staff after she refused to return to the non-restricted area to pick it up as normally required under airport security rules. Instead, she waited for it at the boarding gate. Leung, who spoke by phone to airport staff, was accused of abusing his power, an allegation he denied.

Speaking at a regular media session, Leung condemned *Next Magazine*, which is owned by pro-democracy businessman Jimmy Lai. Leung argued he and his wife had already given a full account of the incident. "*Next Magazine* should not go to the campus and harass my daughter. What they did deserves a reprimand."

Both *Next Magazine* and the HKJA immediately hit out at Leung's accusation, saying it posed a threat to press freedom. Despite his clarification and a 10-page report compiled by the Airport Authority on the incident, some key questions remain, including what Leung said in the phone conversation with airport staff.

OFFICIALS SCORE LOW MARKS IN MEDIA SURVEY

Issuing evasive statements without facing reporters is common among those in the Leung administration. The number of press conferences and interviews given by his officials has dropped markedly, while some, in particular unpopular ministers like education chief Eddie Ng and development secretary Paul Chan, seem to be happier writing regularly on their blogs, thereby avoiding tough questions from reporters.

Officials scored low marks for their attitude in responding to media queries and high scores for their manipulation of these questions in the HKJA's annual Press Freedom Index report released in March 2016. A total of 446 journalists responded to the survey, which was used to compile the 2015 index. They gave an average score of 2.6 points out of 10 for the attitude of the chief executive and his principal officials in responding to media enquiries. The corresponding score was the same in 2014, down from 3.1 points in 2013. Respondents gave an average of 3.9 points out of 10 for the degree of government manipulation of media reports and information. A lower figure represents a greater degree of manipulation.

When asking whether Hong Kong news media faced difficulties in obtaining information they needed for reporting, the average rating given by the public was 5.7 and for journalists 4.4, down 0.1 and 0.2 points respectively from the 2014 figures, with 10 being "very adequate" and zero being "very inadequate". Citing the results, HKJA chairperson Sham Yee-lan renewed calls for the government to introduce a freedom of information law to boost government transparency. As we report in section 4, the government has failed to do so.

A WORRYING COURT CASE; A REASSURING RESULT

Another worrying development initiated by the government was a court attempt to force five media organisations to release unedited news footage of an alleged police beating of a protester at Tamar Park in Admiralty during the 2014 Occupy Central protest movement. The case caused a media outcry.

An application to the High Court by the police commissioner for TVB, Apple Daily, ATV, i-Cable and now TV parent PCCW to hand over footage relating to the alleged beating by seven police officers of Civic Party member Ken Tsang was rejected by judge Judianna Barnes. The judge also rejected a police demand for the identities of the TV cameramen involved.

The judge ruled: "There is no basis for believing that any general footage covering the whole of Tamar Park would be of 'substantial value to the investigation'." Barnes was referring to a case in which seven officers face charges over the alleged beating of Tsang in October 2014. Tsang also faces charges of assaulting and resisting officers.

Barnes said she was not satisfied that it was in the public interest to issue a production order for the full unedited footage after balancing the importance of the freedom, integrity and impartiality of the press against the need to combat crime. She also noted that footage of the incident was already in the public domain.

While it may be inappropriate to speculate on the motives of the police in wishing to seek a court order to force the media to heed their demands, it cannot be denied that the move has reinforced fears among the media that the government is seeking to tighten its grip on it by making the maximum use of its powers.

Tsang was later convicted of one count of assaulting police by throwing an unidentified liquid over officers and two counts of resisting arrest. He was sentenced to five weeks in prison. Tsang vowed to appeal.

The trial against seven officers accused of beating Tsang is underway. At press time, the judgment was still pending. Part of the court argument centred on the admissibility of media footage in the case.

COMMERCIAL RADIO LICENCE RENEWED AFTER DELAY

Aside from going to court to seek unedited TV news footage, the government has also been embroiled in other media-related controversies. The granting of new licences for free-to-air TV services and Commercial Radio are the most significant examples.

As the row over its refusal to issue a licence to Hong Kong Television Network owned by Ricky Wong dragged on, the government's Commerce and Economic Development Bureau was questioned over the delay in agreeing to grant a new licence to Commercial Radio. The broadcaster's current licence expires in August 2016.

The government normally informs an existing broadcaster of the result of its application for renewal one year before the current licence ends, but in this case the decision was announced just five months before. The delay brought back memories of

the departure of two outspoken Commercial Radio programme hosts, Albert Chan and Raymond Wong, around the time that the broadcaster was last seeking renewal of its licence in 2004.

The delay was described by a popular current affairs host at Commercial Radio, Stephen Chan, as “unusual”. Chan and his colleagues were not alone in feeling bewildered by the government's media policy and handling of some broader issues that have implications on its commitment to openness, transparency and accountability.

The government finally announced, in March 2016, that the Executive Council had agreed to issue a new 12-year licence to Commercial Radio and Metro Broadcast. This came 10 months after the government regulator, the Communications Authority, submitted its report on the issue to the Executive Council.

Commerce and economic development minister Greg So denied that political considerations were involved in the delay in issuing a new licence. However, Civic Party legislator Claudia Mo said the delay posed a threat to other media outlets which did not want to face similar delays.

More concerns arose when the Communications Authority noted that views had been expressed that Commercial Radio was biased and recommended that the broadcaster and Metro should strengthen their guidelines to staff to help ensure the principle of “appropriate balance” was being observed in their programmes.

Journalism academics and legislators feared the recommendation would place unnecessary pressure on staff. Anthony Fung, director of the School of Journalism and Communication at Chinese University, said the recommendation was “inappropriate” because the existing mechanism could handle any breach of the guidelines. Lawmaker Claudia Mo said she was worried that the recommendation may trigger self-censorship and weaken broadcasters’ editorial independence.

TVB GIVEN NEW LICENCE; ATV DRAMA FINALLY ENDS

The delay in renewing Commercial Radio's licence contrasts sharply with the smooth ride given to Television Broadcasts (TVB) in its application for licence renewal. In May 2015, the government issued a new 12-year licence to TVB. The broadcaster has pledged to invest HK\$6.33 billion in the next six years, down from its commitment of HK\$7 billion in its previous licence period.

TVB has been severely criticised for a lack of quality and originality in its programmes. Under its new licence, it has undertaken to produce at least 12,000 hours of locally produced programming each year, representing 27.4 per cent of the total. The government said: “Furthermore, to respond to public aspirations and to facilitate the government's policy of nurturing local talent, TVB has been required to provide on its licensed service independent local productions on an incremental basis from 20 hours per year in 2016 to 60 hours per year by 2020.” Critics say the programme requirements are favourable to TVB.

There was also criticism when the government decided against auctioning existing TVB spectrum that had been freed up. Some lawmakers said the existing assignment of spectrum was unfair. Some academics said the additional spectrum held by TVB should be reallocated to new players to help boost competition.

The announcement on TVB's new licence was made shortly after the government decided not to renew the licence of Asia Television (ATV) when its existing licence expired on April 1, 2016.

The 12-month countdown to the demise of the 59-year-old TV station was riddled with chaos and controversy. Staff took the management to court over their failure to pay wages. Ip Ka-po, a former executive director, stood trial for charges of delayed wage payments. He resigned shortly after he was convicted and fined. The station's major investor, Wong Ching, applied for ATV's liquidation. Accounting firm Deloitte was appointed provisional liquidator of ATV. At one stage, it was locked in a dispute with ATV management over the fate of the broadcaster. Confusion reigned as the management promised new investment, but nothing came of this. The drama ended shortly before midnight on April 2, with all ATV channels suddenly going blank.

The spectrum returned by ATV was taken up by government broadcaster Radio Television Hong Kong, which offered a full service on the Chinese channel and a China Central Television (CCTV) documentary service on the English channel. However, RTHK faced constraints due to a lack of resources and, perhaps more important, a clear government policy on the role of RTHK.

Days after ATV stopped broadcasting, ViuTV, a new free-to-air TV broadcaster, initiated its service. It remains to be seen whether the broadcaster owned by telecom firm PCCW and previously known as Hong Kong Television Entertainment will break TVB's dominance of the free-to-air TV market.

Another new player, Fantastic TV, which is owned by i-Cable, received the go-ahead in May 2016 to start broadcasts. It pledged to offer a Cantonese-language service within a year and an English service within two years.

The government agreed to grant licences to the two newcomers while saying no to the bid by Hong Kong Television Network (HKTU). The decision made in 2013 sparked a storm of criticism. HKTU challenged the Executive Council decision in the High Court, which found in the broadcaster's favour, ruling that the council should reconsider the licence application.

However, the Court of Appeal overturned this ruling in April 2016. HKTU has decided not to appeal. In the meantime, HKTU is awaiting the result of a second licence application to run a free-to-air service.

CURBS ON ONLINE AND STUDENT JOURNALISTS

Government restrictions on reporters from online news services and student publications in covering official events such as press conferences constitute another case of the failure by officials to keep abreast of media developments and inertia in revising policy. It also prompts questions about whether the government is barring "radical" online media from events and thereby avoiding embarrassing criticism or questions.

The issue came to a head in February 2016, when online and student reporters from various universities were denied access to the media centre set up to cover the New Territories East by-election—a fiercely fought poll arising after then Civic Party legislator Ronny Tong resigned from the Legislative Council. Among those barred were journalists from online sites Stand News, Inition Media and inmediahk.

With the boom in digital media outlets (see section 2), the government's repeated refusal to grant accreditation to reporters from online and student media to cover official events including press conferences is wide open to criticism.

In a reply to students in May 2016, the director of the government's Information Services Department, Patrick Nip, cited a lack of facilities as the reason to ban reporters working for student journalism magazines. Officials have also claimed there is no "clear and consistent definition of online media" and that "everyone can launch an online media website". They say they allow access only for journalists from registered newspapers, radio and TV stations and news agencies.

HKJA vice-chairperson Shirley Yam argued that the government should provide enough space and facilities for news media workers irrespective of whether they work for traditional, online or student outlets. The issue has raised concerns that officials may be bent on suppressing the growth of online media outlets because many tend to take a critical stance towards the Leung Chun-ying administration.

There is no denying the fact that there are technical difficulties in giving accreditation to online media outlets in view of their diversity. Some are seen as political advocacy groups, not news media. The difficulties in setting rules for accreditation, however, are not insurmountable.

The HKJA held a meeting with Information Services Department officials in October 2015 and suggested that press identification could be made through documents issued by different news outlets and journalism organisations according to their own guidelines. Among them is the press card issued by the HKJA under stringent conditions. The officials did not respond positively to the proposal.

The HKJA repeated the proposal in a letter to Secretary for Home Affairs Lau Kong-wah in February 2016. The Information Services Department, replying on Lau's behalf, reiterated its policy that it could not take action "in the absence of a legally binding registration or licensing regime ... as well as a set of objective criteria defining solely online media".

Meanwhile, a Chinese University student filed a writ in the High Court in May 2016 against the barring of student and online reporters from government news conferences. The chief editor of student magazine *Varsity*, Teenie Ho, sought a judicial review against Nip challenging the Information Services Department's refusal to allow student reporters to attend official events, arguing that this policy was a serious violation of press freedom guaranteed in the Basic Law. Another student, Xu Fangwen from Baptist University, filed a separate writ. The case has yet to go to court.

In June 2016, the HKJA submitted a complaint to the Ombudsman about the barring of online journalists from government media events and access to its news information system. It noted that the HKJA press card could be used to facilitate access and that many jurisdictions including mainland China and Taiwan were now registering online journalists. It also noted that the Legislative Council would grant annual passes to online reporters who can prove they produce articles.

The HKJA noted that more people were nowadays using internet sites to find news. It cited a survey by the University of Hong Kong's Public Opinion Programme that found that half of all respondents relied on news websites last year, compared with just 11 per cent in the year 2000.

SECTION 4

Information omissions and vanishing archives

“Progress, far from consisting in change, depends on retentiveness. When change is absolute there remains no being to improve and no direction is set for possible improvement: and when experience is not retained, as among savages, infancy is perpetual. Those who cannot remember the past are condemned to repeat it.”

George Santayana, *The Life of Reason*, 1905

With that last sentence, Spanish-American philosopher George Santayana identified a key ingredient of human and societal progress, and of course, by “remember” he was writing not of any individual’s memories, but of the collective repositories of human knowledge and experience. We don’t carry around in our heads the contents of decades of newspapers, broadcasts or websites, but we do need access to these if we are to make better decisions in the future as a society. If governments, legislatures, courts and electorates have access only to the present and not to the past, then we have not learned from our mistakes and are bound to repeat them.

Access to government information is a vital right enshrined in the International Covenant on Civil and Political Rights, which itself is recognised in Hong Kong’s Basic Law. The proper maintenance of archives is an essential element in this right for ensuring that past documents are readily available to residents. Media archives are also a vital repository for researchers and historians, as well as journalists, even though strictly speaking they are private property.

GOVERNMENT ACCESS FAILS THE TEST

The government continues to refuse to act on introducing freedom of information legislation even though Chief Executive Leung Chun-ying signed a Hong Kong Journalists Association (HKJA) press freedom charter pledging to play an active role in implementing such a law. Instead, the government clings to a toothless, non-statutory code on access to information, which has proven ineffective since it was put in place in March 1995.

The most damning indictment of the non-statutory system came from the Ombudsman, who in 2013 recommended the enactment of legislation giving people a legal right to access government information. Yet, the government’s response was lukewarm. The issue was taken up in 2013 by the Law Reform Commission, which set up a sub-committee to research and discuss the issue. That process continues, with no guarantee that the government will agree to legislate on the issue if the commission makes a recommendation to enact an access law.

According to an open non-governmental platform (<https://accessinfo.hk/>) facilitating information requests to the government, 65 cases were recorded on the site since mid-2015. A total of 18 percent were refused and 17 percent received the response that the departments did not hold the information. Taking 5 percent of cases on which there was no response, the failure rate reached 40.5 percent. This number exceeded the combined percentage of successful (30.7 percent) and partly successful cases (12.3 percent).

If we examine individual cases, the failure rate becomes more evident. Among the 65 requests, eight cases were “awaiting classification”, meaning the request had not been updated or answered for a long time. When the requests are checked further, most have actually been denied by the department concerned or it says it does not hold the information. The person requesting the information may then not bother to classify the request because the case has dragged on for too long or he or she is dissatisfied with the answer.

Screening of successful cases shows that they cover straight-forward and non-sensitive issues, like postal codes, mapping data, consideration about transfat legislation and individual qualification assessments by the Hong Kong Council for Accreditation of Academic and Vocational Qualifications. On the contrary, cases that fail relate to sensitive issues or those that may shine a bad light on government departments. They include test results of drinking water samples filed in November 2015, data on border traffic and electric pole maintenance log and failure rates.

The failure rate encountered by those who submit requests is similar to the results of a test conducted by the HKJA from 1997-98. These figures challenge the high success rate announced by the government on a quarterly basis, which invariably exceeds 90 percent. If the success rate is so high, there would seem to be no reason for the government not to enact a freedom of information law. It makes the government more vulnerable to charges that it is resisting General Comment No 34 issued in 2011 by the United Nations Human Rights Committee, which calls on state parties to ensure easy access to government information through means such as access to information legislation.

HONG KONG WORST AMONG FOUR LITTLE DRAGONS

The government claims that Hong Kong is a regional information hub. But research shows that the administration is not as open as it claims. According to the Open Data Index compiled by the Open Knowledge Foundation based in the British city of Cambridge, Hong Kong ranked 42 among 134 countries and places in 2015. (See <http://global.census.okfn.org/> for details.) It lags behind Taiwan (1), South Korea (31) and Singapore (20), which along with Hong Kong are considered the four little dragons for their strong economic growth starting in the 1960s.

The index is compiled according to the openness of data in 15 areas, namely national statistics, government budget, legislation, procurement tenders, election results, national map, weather forecasting, pollutant emissions, company register, location datasets, water quality, land ownership, transport timetables, government spending and health performance. Among these yardsticks, Hong Kong can be regarded as open in the areas of government budget and information related to statistics and election results. The least open area in Hong Kong is government spending, while location datasets are the most “unsure area”. In total, Hong Kong received 540 marks, while Taiwan, which topped the index, had 1,010 out of a maximum 1,300 marks.

Among all Asian countries, Thailand (510 marks), Philippines (405) and mainland China (240) were less open than Hong Kong.

Hong Kong’s low score appears to be related to its policy. According to a study conducted among 13 economies in 2014 by Waltraut Ritter, director of an organisation called Knowledge Dialogue, Hong Kong and Singapore are highly developed internet economies and yet do not have dynamic open data communities and markets. Both countries use the term “public sector information” rather than “open data” since neither has a freedom of information law.

Ritter concluded that countries with a tradition of restricted public information access score low on information openness, the level of trust between civil society and government is often low and public data is not considered a reliable source of information. It is worrying that Hong Kong may continue to go down this path if no improvement is made in the near future.

GOVERNMENT SECRETIVENESS WORSENS

Enactment of freedom of information legislation is now a matter of urgency given that the existing government code fails to give the public any legal right to seek and obtain government information. Indeed, 89 per cent of journalist respondents told a survey compiled for the 2014 Press Freedom Index that a law on freedom of information should be enacted. Journalists surveyed in early 2016 thought they faced more difficulties in obtaining information, giving a rating of 5.7 on a scale of 0 to 10. A score of 10 means the difficulty is very common. The rating for the previous year was a slightly lower 5.4.

The government’s reluctance to enshrine in law the public’s right to access information is even more puzzling when more than 90 countries have enacted such legislation, including Britain which relied on an administrative code when Hong Kong’s version came into effect in 1995. The former colonial power finally enacted its own access law in 2000.

Of equal importance in this process is a need for an archives law, which would require the government to keep internal records of its activities, such as minutes of meetings at which policy proposals are discussed, tender documents and consultants’ reports. Those

records in most developed countries, after a passage of time often measured in decades, are opened to public scrutiny, but if the records do not exist, then that cannot happen.

The public may therefore never see the internal minutes, memos and emails which led to important decisions, such as the decision to approve major infrastructure projects or discussions on how to handle the 2014 Occupy Central protests.

Ironically, as time passes since the 1997 handover, more and more records relating to Hong Kong affairs in the colonial era are becoming available in Britain under the “30-year rule” which, since 2013, has been in transition to a 20-year rule, releasing two years of records each year until 2022. So in 2016, records from 1989 and 1990 are being released, and the last Hong Kong colonial records in British hands, for 1997, will be released to the national archives in 2020, except where they are retained under exemptions such as national security.

After that, we will enter an information void until at least 2027, 30 years after the first SAR government took office, at which point we will discover what, if anything, was retained and handed to the Hong Kong Public Records Office. In this respect, there is a fear that confidential and sensitive records may simply vanish. In the meantime, all the public will have is media records of the events of 1997 onwards, if they can access them.

PATCHY MEDIA RECORD ON ARCHIVES ACCESS

Despite the internet revolution in which contemporary news travels faster and further than in the pre-internet era, access to Hong Kong media archives is limited and reducing. In some cases, as broadcasters or newspapers go out of business, their archives either get destroyed or locked away, and any website they had closes down.

In other cases, often for unclear reasons, the media are limiting the period of time for which articles either remain online or can be found via their website search functions. This has been the case for the English-language *Standard*, whose online archive was once searchable back to 1995. In May 2013, it reduced the look-back period to a rolling three years. More recently, a revamp of the website reduced the text search function to a rolling one-year period.

Here is what the search page looked like before and after the May 2013 change:

The image shows two screenshots of the 'The Standard' newspaper's search page. Both screenshots feature the newspaper's logo at the top and a search interface below. The search interface includes a 'Find' section with radio buttons for search options: 'with all search terms', 'with the exact phrase', 'with at least one of the words', and 'without the words'. Below this is a 'Date Range' section with a 'Year to search' dropdown set to 2013 and a note '(Only 1 year at a time)'. The 'Start Date' and 'End Date' are set to April and May respectively. A 'SUBMIT' button and a 'RESET' button are visible. At the bottom of the search interface is an 'Archive' section with a calendar for the year 2013. The left screenshot shows the calendar for 2013 with the month of May highlighted. The right screenshot shows the calendar for May 2013 with the date 30 highlighted.

In the broadcast media, although RTHK puts a lot of its programmes online for streaming or downloading as podcasts, these are currently removed after one year. In an era where a single hard drive can contain terabytes of storage, the cost of maintaining such archives online is trivial even for a government broadcaster that is run on a tight budget. The result of this policy is that if you want to hear the original coverage of the approval of the controversial express rail link to Guangzhou in 2009 or the chief executive elections in 2007 and 2012, then you won't find it on RTHK's site.

Researchers seeking to identify the real sentiments expressed during the July 1, 2003 march against national security legislation and the subsequent events leading to the resignation of Hong Kong's first chief executive, Tung Chee-hwa, in 2005, will struggle to find contemporaneous coverage.

Meanwhile, with the demise of broadcaster Asia Television in April 2016, the future of its archives has been thrown into doubt. However, it was a surprise when the broadcaster's provisional liquidators discovered that someone had taken copies of at least part of its archives on portable hard drives.

Commendably, the *South China Morning Post* online archive stretches back to May 1996 and, following a change of ownership, the paywall was dropped in April 2016.

In the Chinese-language media, search periods for free access to archives ranged from no limit to just one day, while for paid subscribers, they ranged from two to 10 years. Some papers have a complete archive of everything published since they went digital, while others are removing articles from search after a fixed look-back period. While papers like *Apple Daily* and *Metro* provide free and unlimited search online, some can be as short as one day like the *Hong Kong Economic Times*.

The media do of course have copyright and a right to charge for current or historic access to their archives, but what is of most concern is when there is not even a "paid" option to search. Further, those which operate paywalls do not always collaborate with search engines to allow their content to be indexed, making the content harder to find.

These issues might imply that many media organisations do not consider online archives to have a significant role or that it is not commercially viable for them to invest so much in retaining them. Some of their on-site search engines do not always work. Many of the websites mentioned that their readers could search for old newspapers from more than 10 to 20 years earlier, but they did not state clearly that the search period was mostly limited.

Further, most media organisations could not provide information on how the removed articles were archived. It seems that the main purpose of newspapers' archives is for internal use. It could be a painstaking process for someone to search the archives using original newspaper websites instead of using a secondary search engine.

As the traditional print media gradually move to online-only publication, even public libraries will no longer be able to keep copies, and readers will be dependent on the original online source unless they have taken the trouble to download their own electronic "press clippings".

The barriers to entry for new online media are relatively low, but similarly, their individual chances of survival are also low, and when they stop paying their web hosting company, their archive will vanish. Digital content is often stored in proprietary systems which are not easily transferred to successors.

SECTION 5

Worrying injunction threatens media freedom

A landmark court case has brought out a new threat to media freedom—in the form of a bid by the University of Hong Kong (HKU) to obtain an all-encompassing injunction to bar the media and anyone else from revealing details of meetings of its governing council past, present and future. The bid is particularly worrying because HKU is a public body and should therefore be open to full public and journalistic scrutiny.

Gill Phillips, director of editorial legal services at British newspaper *The Guardian*, makes the point that the move appears to be a precedent among the world's institutions of higher education to use this sort of injunction in this way to stop the leaking of council materials.

HKU OBTAINS PRECEDENT-SETTING INJUNCTION

In an unprecedented move on 29 September 2015, the university's governing council voted 12-8 to reject the recommendation of its selection committee to appoint Professor Johannes Chan as pro-vice-chancellor. The decision came after a pro-Beijing newspaper, *Wen Wei Po*, launched a heavy attack on the scholar, who has pro-democracy leanings. After leaking the committee's recommendation that Chan should be appointed, the newspaper published more than 300 articles against the scholar. Among them were two full-page criticisms of the law school dean for allowing one of its lecturers, Benny Tai, to mastermind the Occupy Central movement in 2014.

The then council chairman Leung Che-hung insisted the decision was in the "long-term best interests" of the university. He refused to explain, citing confidentiality and privacy concerns. Other members were bound by confidentiality undertakings which were not signed until months before the vote on whether to appoint Chan. The decision was condemned by students and alumni, who accused pro-government council members of politicising an academic matter and threatened to challenge it in court.

On October 28, Commercial Radio aired audio clips of council member Arthur Li criticising Chan at the September 28 meeting. He said some political parties were planting Chan as the "party secretary" of the university. HKU issued a lawyer's letter to the broadcaster asking it to remove all recordings and refrain from disclosing more or face an injunction. On October 30, the broadcaster released the recording of another council member and posted two clips on its website.

Within hours, under the instruction of its council chairman, the university obtained an interim court order to ban media from reporting further leaks. Instead of releasing the court order, it issued a press release suggesting an "all-encompassing" injunction. It said the order covered Commercial Radio and "persons unknown" who had "appropriated, obtained or ... intend to offer" confidential information about the council's meetings. The release said these parties must not use, publish, communicate or disclose to any other person materials including any audio clips, agenda, papers and minutes of the council. They were also barred from publishing any information that might identify any HKU members, including council members, staff and students.

The scope of the injunction was criticised for being too wide. Senior counsel Audrey Eu said it effectively gagged the whole world in relation to all HKU council materials in the past, present and future, instead of the council meetings related to Chan's appointment. She further questioned whether the use of an injunction deviated from the accountability of an HKU trustee. A trustee is expected to follow seven rules, including accountability and transparency, which are also included in the council's code.

Despite the outcry from the community, the result of the injunction was a total news blackout on the issue for three days. Concerned with legal repercussions, Commercial Radio as well as every other media organisation immediately removed all clips and related reporting from their websites.

HKU MISREPRESENTS SCOPE OF GAG ORDER

The press release turned out to be a misrepresentation of the court order. In the early morning of November 2, HKU law scholar Professor Eric Cheung posted a copy of the

court order on his Facebook page revealing that the injunction did not ban information that was already in the public domain. That meant the recordings which had already been uploaded before the injunction was granted did not have to be taken down. It would also provide an important way out for the media against the injunction as subsequent events showed. This significant exemption was omitted by the university from its earlier press release. Senior counsel Ronny Tong expressed disappointment over HKU's withholding of information and further commented that it was irresponsible to announce it with a press release instead of an official document. The university's misrepresentation allowed it to get what it did not get from the court—a total news blackout.

Later that day, the university finally posted on its website the court order and its application in full. This was three days after the hearing. It issued another press release that said the action was “not seeking to challenge the media” but to prevent further leakage of information. It offered no explanation or apology for its misleading statement issued on October 30. Its action destroyed whatever trust the media had left in the university. Various media reloaded the material they had onto their websites that same day.

Seven media unions including the Hong Kong Journalists Association (HKJA) and about 1,000 journalists and academics signed a joint protest petition against the interim injunction. They said: “Publication of confidential information to expose injustice and corruption for the sake of public interest has always been and is the duty of every journalist and media institution.”

Nevertheless, on November 5, Commercial Radio agreed not to contest HKU's application. It also promised not to air any other content of the council's past or future meetings except those already reported by other media. Its lawyer argued that it was not compromising press freedom because it had already broadcast all the material it had, and had therefore fulfilled its responsibilities.

That was a big disappointment to many because the broadcaster was the only named defendant in the injunction application. Its retreat left no one with a clear legal capacity to challenge the university's demand to gag others from publishing any council information. Anyone daring to attempt such a move faced not only a difficult legal case to argue but also a potentially hefty legal bill claimed by the university if the case failed. The university is represented by Clifford Smith, a senior counsel who does not come cheap.

FIVE PARTIES SEEK TO JOIN COURT CASE

Against all odds, five parties challenged the case. They were the HKJA, *Apple Daily*, legislator and HKU alumnus Ip Kin-yuen, HKU student publication *Undergrad* chief editor Marcus Lau and fellow university student Lee Hei-shun. They applied to be either an intervenor or a defendant on the ground that their right to receive information was hampered by the injunction. They also opposed the injunction on the ground that HKU was a public body and its reasons for not appointing Chan were a matter of public interest for which restrictions should not be imposed on the press.

Lee and Ip subsequently dropped their application due to cost concerns. The applications of the remaining three, including the HKJA, were rejected. In a written decision on November 30, Mr Justice Godfrey Lam said the injunction was not targeted at the applicants and there was no evidence to show that the anonymous whistle-blower had disclosed relevant information to them.

However, he noted that the case concerned competing public interests and it would be undesirable for the novel issues to be decided without the benefit of adversarial argument. He directed the HKJA to take part in the trial given its familiarity with press freedom. However, the union's participation was limited only to accessing documents in the case and making statements in court.

GAG ORDER SCOPE NARROWED DOWN

Meanwhile, the university agreed with the judge's demand to narrow the scope of its application to cover only the contents of the meetings between June 30, 2015—when the pro-vice-chancellor appointment was first discussed—until the day of the hearing.

The judge called the original scope “a little unusual”. He said: “My concern is that your claim results from a breach of confidence, and now you are seeking a perpetual injunction on all meetings, future, past and present.”

Given that the university would later make two amendments to its gag order, HKJA vice-chairperson Shirley Yam said the institution had been blinded by a desire to stop the leaking of its council members' embarrassing comments, allowing itself little time to consider the legal practicality as well as its devastating impact on press freedom.

The court granted a continuation of the injunction. The HKJA expressed disappointment at the ruling and decided to pursue the case further.

Notwithstanding the extended injunction with a narrower scope, new recordings from the September 29 meeting featuring comments by five other council members were aired on a popular Taiwan-based website. It was not caught by the interim injunction because it was leaked outside the Hong Kong jurisdiction. Since the new clips were already in the public domain, Hong Kong media organisations were free to publicise them given the exemption in the interim injunction.

HKU CLAIMS IMPORTANCE OF CONFIDENTIALITY

A hearing in the case was held on May 23, 2016. Although most of the discussion of the council meeting was made public before the hearing, the university insisted on pursuing an injunction. Its counsel, Clifford Smith, said it was a matter of public interest to preserve confidentiality, which was necessary for a public organisation to function properly. Otherwise, it would create a chilling effect on free expression within a public body and deter people from serving on any such body in future. On the other hand, Smith argued, the fact that the matter had been disclosed and would interest the public was not a sufficient claim of public interest. He noted that the clips revealed no political interference or wrongdoing that would justify a claim of public interest.

What Smith failed to address were the necessity and proportionality tests that should have been applied in justifying a restriction on press freedom, which is a basic right under the Hong Kong Bill of Rights Ordinance, which mirrors the International Covenant on Civil and Political Rights.

Article 16(2) of the Bill of Rights stipulates: “Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds.” According to the HKJA’s legal representative, Erik Shum, the word “impart” protects the media’s right to publish the information and they only have to bear legal responsibility or consequences, if any, after the information is published.

This protection has allowed journalists to reveal wrongdoings based on confidential information provided by insiders. Among them were investigations which led to the jailing of senior crown counsel Christopher Harris for procuring an underage girl for sex after the media revealed the then attorney general’s initial decision before the 1997 handover not to prosecute him. Another case involved former legislator Gary Cheng, who was accused of passing on confidential information to his business partner. He was jailed in 2001 for abuse of power.

Whistle-blowers are often bound by an agreement of confidentiality put in place in the name of public interest and the proper functioning of public bodies. It is clear that gagging the press for the sake of upholding confidentiality of a public body will significantly curtail the monitoring of the press in the name of public interest.

Therefore, as pointed out by Shum in court, any restriction of press freedom can be imposed only when there is an absolute necessity and it must be proportional to the purpose it is trying to accomplish. He said the university’s objective to ensure free council discussion and to protect future council functioning could hardly justify a “wide and draconian” injunction, given that most of the council proceedings had already been leaked. He also disputed claims that the council discussion was merely interesting to the public. This was because the appointment issue aroused concern about political interference at the university, which was not a commercial entity but a public body. The press therefore had a right to provide information on council deliberations.

The practicality of the injunction application was challenged by both the judge and the HKJA. Shum questioned how the gag order against an unknown person could be

implemented since it would cover all seven million Hong Kong residents but there was no mechanism for serving it on everyone.

HKU counsel Smith countered with the 2003 Harry Potter case in which a British court for the first time ordered an injunction against unknown persons in possession of the author's fifth book without authorisation prior to publication. Mr Justice Lam interrupted to say that in that case there was something to offer for sale and not an "imaginary one" as in the HKU case. He asked if the university would refine the scope of the injunction to cover only those in possession of the relevant information. At the end of the hearing, Smith proposed two amendments which he conceded had technical problems and he would leave it to the court to decide.

The hearing was adjourned for judgement, which at press time was yet to be handed down.

SECTION 6

Violence continues to stalk the media

Attacks on journalists amount to trampling on press freedom. Despite the apparent drop in the number of physical attacks on journalists over the past year, the occurrence of “invisible” assaults is becoming more prevalent and even more alarming. This includes hostility on the part of protesters and crime suspects which poses a potential threat to the personal safety of reporters.

Other cases threatening editorial independence include the sacking of *Ming Pao Daily News* chief executive editor Keung Kwok-yuen, who sought to safeguard the professionalism of his fellow journalists. A decision by major free television station TVB to cut back on the hiring of interns from Hong Kong universities created a barrier to the nurturing of new blood in the media industry. All these events have given rise to worries, frustration and anger among local journalists.

Amid a wave of closures, lay-offs, salary cuts and pay freezes in the media, observers are now questioning whether the industry is in terminal decline. Several prominent newspapers and magazines were shut down or became digital publications only. The publication of Hong Kong’s oldest newspaper, *Sing Pao Daily News*, was halted for about three weeks after it could not pay its printer. Such workplace pressures may end up having an adverse effect on editorial independence.

WORRIES CONTINUE ABOUT ATTACKS ON JOURNALISTS

Compared to many previous attacks on journalists in which the attackers remained at large, the conviction of Yip Kim-wah and Wong Chi-wah over the brutal attack on former *Ming Pao* chief editor Kevin Lau in February 2014 is seen as a satisfactory result that reflects justice. The pair were sentenced to 19 years in jail in August 2015.

High Court judge Madam Justice Esther Toh called the assault an abrasive attack on the rule of law in Hong Kong. She went on: “It is lucky for Hong Kong people to have freedom of the press ... Members of the press, like everyone else, should be protected by the law without fear in their daily business.”

But worries among journalists were not eased as no indication was given of the motive for the attack or who masterminded it. The court heard only that the attackers, who were arrested in neighbouring Shenzhen and sent back to Hong Kong, claimed to have been offered HK\$100,000 to carry out the attack “to teach Lau a lesson”.

However, attacks on journalists are still happening even though the number is down on the figure for July 2014 to June 2015. This was a particularly bad year because more than 30 journalists were assaulted during the Occupy Central protests. However, there were no prosecutions over those attacks.

In the year under review, at least seven journalists faced attacks. This is still more than the two or three incidents recorded in a normal year. They included attacks on six journalists during or after disturbances in Mongkok and Tuen Mun on the first day of the Lunar New Year in February 2016, and an assault on an *Apple Daily* photographer who was chased and attacked with rubbish bins while he was covering a vote-planting scandal in Shek Lei in Kowloon.

During the Mongkok clash, at least four reporters were attacked by protesters and police officers. They included a *Ming Pao* reporter, Tang Lik-hang, who was assaulted by a group of officers after he was ordered to come down from the top deck of an abandoned bus where he was watching the disturbances. The assault took place even though he showed his press card and shouted he was a journalist.

“Several policemen approached me, pushed me to the ground with their shield and when I tried to protect myself, I felt I was kicked and my head was hit by something,” Tang told reporters.

A TVB cameraman was hit by a glass bottle while two reporters from i-Cable and RTHK were attacked with bricks during the disturbance.

Two journalists from online news portal HK01 were assaulted by attackers who appeared to be wearing “security” uniforms over the following two days. HK01

strongly condemned the violence, asked for an apology from the attackers and urged the police to conduct a thorough investigation.

In an open letter to Commissioner of Police Stephen Lo, the Hong Kong Journalists Association (HKJA) urged the force to investigate the attacks and punish anyone found guilty. No action was taken in the assault cases.

STONG SENTIMENT OF HOSTILITY TOWARDS JOURNALISTS

One trend that has emerged over the year under review has been the unfriendly attitude and at times hostility on the part of protesters against journalists. This is particularly true of those belonging to localist organisations, who feel that the media has become overly pro-establishment and pro-Beijing.

After the Mongkok clash, activist Edward Leung of Hong Kong Indigenous, who was involved in the disturbances, told a public forum that it was inevitable that the innocent would be implicated in any movement. He further claimed attacks on journalists were a way to disguise the identity of protesters. “Which is more important—the fight of protesters for freedom in the next 10 years, or journalists’ right to cover news and their right to information?” Leung asked.

Commentator Ng Chi-sum pointed out that protesters attacked journalists simply so they would not be identified. This is no different from the violence committed by so-called “blue ribbon” anti-Occupy Central supporters and the police on journalists during the pro-democracy sit-ins in late 2014. Occupy Central co-organiser Chan Kin-man warned that it was wrong to attack journalists, saying it would undermine press freedom, a core value of Hong Kong.

In an alarming development, two netizens later published on the internet the photos of two TVB journalists, calling on the public to beat them up. The netizens were arrested in February 2016 over the offence of access to a computer with a criminal or dishonest intent.

The contact details of some journalists were posted online by an unidentified individual who had obtained their business cards, while some protesters who were involved in a dispute with *Apple Daily* photographer Ma Chuen-shun made public the personal data of Ma and his friends obtained from their Facebook page. The saga ended after Ma and *Apple Daily* made an apology.

EDITOR’S SACKING SENDS SHOCK WAVES

A major incident during the year was the sacking of *Ming Pao* executive chief editor Keung Kwok-yuen in April 2016. The newspaper’s chief editor, Chong Tien-siong, claimed Keung, who was well known for his impartiality and commitment to the public interest, was sacked for cost-cutting reasons. The move prompted a backlash among *Ming Pao* staff and other journalists, including those from the HKJA.

Ming Pao staff held several protests and different columns in the newspaper were left blank for four days as a sign of protest, although newspaper editors added an explanation about why the dismissal had taken place. The *Ming Pao* Staff Association demanded Keung’s reinstatement, suspecting that the sacking was more to do with his opposition to the views of superiors on their editorial decisions.

A total of eight journalist groups including the HKJA held a rally outside *Ming Pao*’s headquarters in Chai Wan in early May 2016—ahead of World Press Freedom Day. More than 400 journalists, community activists and politicians took part.

HKJA chairperson Sham Yee-lan read out an open letter from the groups calling for Keung’s reinstatement. “The recent dismissal is a matter of great concern to the news industry and to society as a whole ... It not only reflects changes in (*Ming Pao*’s) overall direction and human resource policies, but also worrying developments in the Hong Kong media,” she said.

Despite the protests, *Ming Pao* management insisted on its decision to sack Keung but agreed to appoint former executive editor, Leung Heung-nam, who had semi-retired, to resume his duty as acting executive editor until August 2017.

This was not the first time that Chong had made headlines. In a late-night move in February 2015, he ordered the replacement of a story lead on a confidential Canadian

government report on the June 4, 1989 crackdown on the pro-democracy movement in Beijing with a far “safer” story—on Alibaba’s donation of HK\$1 billion to help Hong Kong youngsters start their own businesses. The move prompted an unprecedented protest by *Ming Pao* staff.

WAVE OF CLOSURES HAUNTS THE MEDIA

For many years, closures, staff sackings and salary cuts or freezes in the media have been rare. This has not been the case in the past year with an economic downturn taking root and the online sector threatening traditional outlets. By a conservative estimate, 800 staff have either lost their jobs or will be sacked in the coming months.

Alarm bells first rang in July 2015 with the closure of the 56-year-old *Hong Kong Daily News*, which left more than 100 staff unemployed. There would be far worse news in April 2016 with the closure of the Oriental Press Group’s 17-year-old newspaper *The Sun*, with the loss of 300 to 400 workers. The closure was blamed on the “deteriorating business environment in Hong Kong” and followed the folding of the group’s free publication *Good News* in the previous month.

Sing Tao News Corporation was also hit by sackings, with reports that about 20 staff were laid off in May 2016. The sackings affected the group’s flagship *Sing Tao Daily News*, as well as free English-language tabloid *The Standard*, free Chinese-language *Headline Daily* and weekly magazine *East Touch*.

Eastweek, a magazine in the group, rolled out a voluntary departure scheme for staff in August 2015 with the reported aim to cut one-third of its staff. In April 2016, the group issued a staff circular stating that staff in top-management jobs would have their salaries cut by up to 20 percent while other staff would face a pay freeze. The firm cited the economic downturn and competition from other media organisations.

There were fears that Hong Kong’s oldest Chinese-language newspaper, *Sing Pao Daily News*, would close. It has long faced financial problems and was forced to halt print publication for about three weeks from July to August 2015 after it failed to pay its printer.

The newspaper avoided permanent closure in August 2015 after the High Court ruled its debt-laden parent should be liquidated. But the judge ruled that the liquidation should not affect the group’s publications.

The closures did not spare magazines. A total of 70 workers were laid off after Next Media folded its *Sudden Weekly* magazine in August 2015. Two magazines which used to be sold with *Sudden Weekly*—*Eat and Travel Weekly* and *Me*—were merged with another magazine in the group. *Me* lost a total of 34 staff.

This move came after a major Next Media publication, *Next Magazine*, rolled out a relatively generous voluntary departure scheme in July 2015 aimed at halving the size of its workforce. After the restructuring exercise involving *Next Magazine* and *Eat and Travel Weekly* failed to cut losses, the media group sacked more than 30 staff from its digital department. In May 2016, another magazine in the group, *Ketchup*, halted print publication but retained an online version. No further lay-offs were reported.

The Next Media staff union warned that morale had been seriously undermined by the group’s actions. It also expressed anger over the reluctance of management to restructure operations or reassign laid-off staff to other sections. The union also said a generous voluntary redundancy scheme could minimise the adverse impact of sackings.

There will be further sackings. In December 2015, Cup Magazine Publishing, which was launched by former talk show host and lawmaker Albert Cheng, will go online only. It will fold the print editions of its magazines *Cup*, *AV Magazine*, *CUPPA* and *Clip* with the loss of 32 workers.

Other sectors were also hit. Online broadcaster DBC announced a plan to streamline the station with the loss of 60 staff, representing 30 percent of total manpower. Twenty staff were laid off from the news department.

Initially, there appeared to be some good news. The chairman of free newspaper *Metro Daily*, Kenny Wee, recruited most of the workers laid off by *Sudden Weekly* and invested more than HK\$100 million to launch a variety magazine called *E Media Plus*. But reports about possible lay-offs started to spread just half a year after the launch of

the new magazine. It was rumoured that about 30 percent of jobs would go, affecting about 60 out of 200 staff. Wee later confirmed that some staff had been laid off, but declined to say how many.

Media groups are undoubtedly suffering in the current economic downturn. But for some groups with an acceptable financial performance to resort to sackings and pay cuts to ensure hefty profits for dividend distribution is unconscionable. Such a policy has completely ignored the contribution of frontline staff and undermined the quality of the publications involved. HKJA chairperson Sham Yee-lan appealed to both media companies and their staff, especially frontline staff, to ride out the hardship together to maintain staff morale and quality news reporting.

JOURNALISM STUDENTS FACE UNEXPECTED BARRIERS

Internships in media organisations give journalism students a valuable chance to gain practical experience and give companies opportunities to recruit new blood. Such arrangements can ensure the long-term development of the sector.

However, there were reports that major broadcaster TVB had decided not to recruit any Hong Kong interns and to take only mainland students. In response to the allegation, the broadcaster said it was its usual practice to split its quota equally between mainland Chinese and local students.

Prior to 2015, TVB's news department would hire well over 10 local trainees. But since then, the station said it had to tighten its expenses and therefore could only hire eight interns—two local graduates from journalism schools, two local graduates from other faculties and four from the mainland. However, so far this year, TVB has hired only one local intern—from the relatively less known Hang Seng Management College.

HKJA vice-chairperson Shirley Yam said TVB's change in its internship policy in the wake of the Occupy movement called for an explanation, in particular as it was a licensed broadcaster subject to government regulations.

There is also evidence that scholarships for journalism courses have been withdrawn following Occupy Central. It was reported that one businessman who was unhappy with university students who joined the movement withdrew scholarships from the University of Hong Kong, Chinese University, the Polytechnic University and the University of Science and Technology and pro-Beijing newspaper *Wen Wei Po* withdrew a HK\$20,000 subsidy from Baptist University.

In another development, Sing Tao News Corporation stopped taking interns for financial reasons. Given that it used to have an annual intake of several dozen trainees, the sudden change of policy has had a significant impact on journalism students.

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 (2016-17)

Sham Yee-lan, chairperson; Shirley Yam, vice-chairperson; Chan Kin-kai, Chan Pik-ki, Gary Chau Ka-shing, Cheng King-hung, Edward Li Ka-chung, Patsy Moy, Ng Ka-yee, Luther Ng, Eva Tsang Sin-lun

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