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Mr Thomas Wong
Research and Library Services Division (RLSD)
Hong Kong Legislative Council Secretariat
Legislative Council
Hong Kong Special Administrative Region of the People's Republic of China

Dear Mr Wong,

Exit polls in Hong Kong

Thank you for your email of 25 February 2008 inviting me to submit my views on the operation of exit polls in Hong Kong. Thank you also for accommodating my overseas conference schedule, so that I can make my submissions beyond your proposed date. I hope my submission herewith would be useful to all Legislative Councillors in their deliberation on whether or not to "regulate" exit polls in Hong Kong, and if yes, how. I will begin by stating my general position, then give a historical treatise of the development of exit polls in Hong Kong, and then proceed to answer your specific questions.

My general position

- As with my other submissions to the Legislative Council at various times, I assume my submission would ultimately be placed in the public domain. To accelerate this process, I intend to publish my submission at our "HKU POP Site" at <http://hkupop.hku.hk/>, possibly in bilingual format, and through other media as well, as soon as my submission has been discussed.
- Although I am the Director of Public Opinion Programme (POP) at the University of Hong Kong, a current member *cum* former Secretary-Treasurer of the World Association for Public Opinion Research (WAPOR), my submission neither represents the views of the University of Hong Kong nor WAPOR. I have nevertheless informed the current and one former President of WAPOR of my submission, and they may write to you directly on this matter.
- I consider academic and press freedoms to be of utmost importance to our society, and any restriction on such freedoms must be exercised with extreme care and would only be introduced with the strongest justification. In this respect, we should set a good example for other Chinese and Asian societies.
- To me, academic and press freedoms could only be curtailed by internationally accepted professional standards, principles and ethics, upon balancing individual rights with public interest in light of local conditions. In the area of opinion research, including exit polling, the WAPOR standards should be our prevailing guide.

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- I am very much aware that there are ample cases of malpractice in Hong Kong, like the proliferation of sub-standard polls and partisan exit polls. Nevertheless, I believe the freedom of all persons and organizations concerned should be equally protected, so that professional polling can freely develop through proper civic education and professional advancement. I urge all persons and organizations concerned, including exit pollsters, to treasure this freedom and find ways to improve themselves/ourselves.

A historical treatise of exit polling in Hong Kong (Please also read Annexes 1 and 2)

- Direct elections at the Legislative Council level first took place on 15 September 1991. On that same day, POP ran its first exit poll. The administration then was worried that chaos of some sort might arise if exit poll results could be broadcast throughout the election day. There was, however, no legal ground to ban exit poll, so a number of meetings were held among senior government officials, media company representatives and exit poll researchers (including myself) before the election. In the name of press freedom, media professionals refused to pledge non-disclosure, so government officials urged voters not to respond to exit poll interviews. Although consensus was not reached, the media exercised self-constraint and did not announce exit poll predictions before the close of poll.
- On 23 July 1993, the administration set up a three-member Boundary and Election Commission (BEC) to take charge of electoral matters. On 16 May 1994, BEC issued its first set of "Proposed Guidelines on Election-related Activities in respect of Geographical Constituency Elections for Public Consultation". One chapter of the Guidelines dealt with the conduct of exit polls and the announcement of exit poll results, and the Guidelines have since then become the legal tool for the administration to "regulate" exit polls.
- Due to the success of the early exit polls, credibility gradually built up around these polls. The explicit objective of BEC's exit poll guidelines was simply "to avoid unfair interference with the election process by unduly influencing electors". BEC only appealed to the media and organizations concerned "to refrain from announcing the results of exit polls or making specific remarks or predictions on individual candidate's performance until after the close of poll", and if any organization failed to comply, BEC would "make a denunciation or censure in a public statement." This means social pressure rather than legal sanction was the main tool.
- In 1995, BEC further required all exit poll researchers to register with the administration seven days before any election, otherwise their interviewers would not be allowed to conduct exit poll within the "no canvassing area" which usually covers many street blocks around the polling station. The media and researchers did not object to this new arrangement, because the Guidelines did not provide any vetting of application by the administration. Any researcher who gave seven days' notice would be allowed to conduct exit poll.

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- That year, on 17 September 1995, another Legislative Council election was held. Without proper consultation, BEC extended the polling hours for the Election Committee Constituency election from 10:30 pm to 12:00 midnight, but not the other elections held on the same day. A grey area was generated, and the media insisted on announcing the predictions of Geographical Constituency Elections at 10:30 pm. BEC proceeded to denounce three news media on 16 October 1995, but had never adopted inconsistent polling hours again.
- After the 1997 handover, BEC was also renamed as Electoral Affairs Commission (EAC). In 2004, it revised the Guidelines to say that upon receipt of an exit poll application, it “will consider the application and issue approval to the concerned person or organisation as appropriate”, meaning that it now has the right to reject applications, even though nothing in the Guidelines provides for any ground for rejecting applications. Up to now, as far as I am aware of, no such action has ever been taken. The 2004 Guidelines also provides for the public announcement of all organizations and interviewers allowed to conduct exit polls “prior to the polling day for the reference of the public and candidates and such a list will also be displayed at the respective polling stations”. It turns out that such information was also published online.
- Since the emergence of exit polls in Hong Kong more than 16 years ago, a consensus has gradually been formed, whereby the government would not legislate against the release of the exit poll results, while the media would not publish the predictions before the close of poll. This kind of consensus based on self-constraint and a mutual understanding of public justice should be treasured. Although the administration now has right to reject exit poll applications, it has not generated any opposition because there is not yet a case to be challenged, thanks to the prudence of many journalists and exit poll researchers. However, recent development of partisan exit polls conducted on enormous scales has seriously challenged the consensus reached between the administration and professional practitioners.
- It is no longer a secret that candidates and political parties in Hong Kong use exit polls for their election engineering. As early as 5 December 1993, I have seen a political party running a large-scale exit poll at a District Board by-election. During the municipal council elections of 5 March 1995, another academic researcher has recorded that about 60% of the candidates from one particular party conducted exit polls as part of their election engineering. The data collected was sent back to their headquarters for instant analysis and manpower deployment.
- In 2004, based on the information released by EAC at its website, in the Legislative Council elections held on 12 September 2004, a consortium of exit pollsters belonging to one political camp has deployed nearly 2,000 people to conduct exit polls at more than 300 polling stations. The human resource involved was about 20 times that of a media-sponsored non-partisan exit poll operation. Such partisan operations have grown even bigger in 2007. For the District Council elections held on 18 November 2007, the same consortium deployed about 2,200 people to conduct a partisan exit poll covering over 370 polling stations.
- The author wrote in 2004, “The author never objects any political parties or other agencies conducting exit polls... What the author opposes, is the research agencies’ use of dishonest

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means to gauge voters' opinions for their election engineering... The consensus reached between EAC and the media after so many years is that there will be no forecast of election results before the close of poll... if individual candidates are able to obtain... exit poll results to support their own appeals and vote allocation strategies, the guidelines set by EAC to prohibit the release of exit poll results will become meaningless." (Annexes 2 and 3)

- According to the WAPOR Guidelines for Exit Polls, "Exit polls can serve three different functions that are not mutually exclusive: predicting election results; describing patterns of voter support for parties, candidates, and issues; and supporting extensive academic research efforts... Exit polls conducted for public consumption should be impartial and non-partisan. Exit polls are scientific research designed to collect data and report information on electoral outcomes. They are not tools for partisan advocacy." (Annex 3)

Answers to specific questions

(Raised in Annex 1)

(a) Under the guidelines, exit polls may be conducted by any person or organization. Do you think persons or organizations conducting exit polls should be subject to certain eligibility requirements? For example, should exit polls be only conducted by academic institutions or registered members of certain internationally recognized organizations for conducting opinion polls?

- Any person or organization conducting exit polls within the "no canvassing areas" should (a) pledge to follow the WAPOR Guidelines for Exit Polls and Election Forecasts, adapted to suit local conditions, and (b) pledge not to use the data for election-day engineering. The Guidelines specifically stipulate, among other provisions, that "no statement about the outcome of an election based on exit polls should be published before all the polls in the contest have closed", that "exit polls should be impartial and non-partisan", that "they are not tools for partisan advocacy", and that "they should adhering to the standards of minimal disclosure". WAPOR noted that "political parties may sometimes make claims about private data", but these claims also require documentation, and any public statement referring to exit poll results should abide by these disclosure principles and requirements". (Annex 3)

(b) Do you think candidates and political parties should be prohibited from conducting or sponsoring exit polls?

- "Any person or organization" in my answer to Question (a) includes "any candidate or political party". Provided that the candidates and political parties concerned (a) pledge to follow the WAPOR Guidelines for Exit Polls and Election Forecasts, adapted to suit local conditions, and (b) pledge not to use the data for election-day engineering, they should be allowed to freely conduct or sponsor exit polls. In essence, that means they would not (a) use the data for election-day engineering, thereby creating unfairness to other candidates and political parties as well as defeating the purpose of setting up "no canvassing areas", and (b) mislead voters into believing that their poll is impartial and non-partisan.

(c) Under the guidelines, persons or organizations intending to conduct exit polls must make

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applications to the Registration and Electoral Office (REO) at the latest 7 days before the polling day; on the receipt of the application, REO will consider the application and issue approval to the concerned person or organization as appropriate. Do you think this requirement for application is reasonable?

- I think this is reasonable, provided that flexibility is allowed in the final selection of polling stations and deployment of interviewers, because these logistics have to be fine-tuned in the final stage of survey planning in light of campaign development. Provided that the persons or organizations concerned have made the pledges mentioned before, REO should not reject any application unless it has a very sound reason to do so, based on public interest. Up to this moment, I have not heard of any case of rejection. This is appreciated.

(d) Do you think persons or organizations which have conducted exit polls at a LegCo or District Council election should be required to submit a report to REO or the Electoral Affairs Commission on the results of exit polls, the use of the results and information on the conduct of exit polls (such as the names and addresses of sponsors of exit polls, the wordings of questions, sampling size and method and margin of error)?

- No, adhering to the WAPOR standard of “minimal disclosure” should be enough. Items for minimal disclosure includes name of the sponsor, researcher, whether the data collector has any business or personal ties to political parties, candidates, political organizations or governmental bodies, the sampling method, whether the interviews are conducted at polling places, at homes, by phone, and so on. While a report to REO or EAC is not necessary, all persons and organizations intending to conduct exit polls should supply their names and addresses to REO or EAC for publication. An explicit statement on the purpose of their exit poll should also be encouraged. Any such statement submitted should also be published for public reference.

(e) Under the guidelines, the Electoral Affairs Commission appeals to the media and organizations concerned to refrain from announcing the results of exit polls or making specific remarks or predictions on the performance of individual candidate or geographical constituency list until after the close of poll. Do you think this appeal should be turned into a statutory requirement?

- No. The current system of appealing to the media and organizations concerned for cooperation and making “a denunciation or censure in a public statement” if any organization fails to comply has worked well for over 16 years. Our media and researchers have *de facto* followed the WAPOR standard in this aspect, and we should be proud of ourselves. According to the WAPOR Guidelines, “WAPOR and ESOMAR oppose regulation of the conduct and reporting of polls in principle. However, no statement about the outcome of an election based on exit polls should be published before all the polls in the contest have closed... Descriptive information other than voting behaviour may be published before the polls have closed.” It would be nice if the media and organizations concerned would voluntarily pledge themselves to follow the WAPOR standard.

(f) Do you think persons or organizations conducting exit polls should not be permitted to provide

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exit poll data to candidates or political organizations for their use before the close of poll?

- Agreed. The whole idea of setting up “no canvassing areas” is to prevent candidates from gaining undue advantage over other candidates in the vicinity of the polling station on polling day. Allowing partisan exit polls within the “no canvassing areas” defeats the purpose. Also, very so often in the middle of an election day, some candidates or political parties would claim that they are in crisis because exit poll reveals that they are trailing behind. According to the WAPOR Guidelines, such claims also require documentation and disclosure of essential items, in order to prove that they are not spreading false information.

(g) Do you think exit polls should be banned on polling day in Hong Kong?

- Definitely not. We must treasure our freedoms of information and academic inquiry. No poll of any sort should be banned or restricted in its conduct or publication – be it pre-election poll, exit poll, or any other type of poll, whether it is impartial or partisan, and whether it is professionally done or not. Sub-standard polls should only be regulated by the academia and the industry themselves according to international professional standards.

(h) Do you have any other comments or suggestions on the existing arrangements for exit polls under the guidelines?

- EAC should continue to announce for public reference a list “of such persons or organisations allowed to conduct exit poll” (a) via its website prior to the polling day, and (b) at the respective polling stations on polling day. In some recent elections, such a list was not displayed in some polling stations where exit polls were conducted. Moreover, if a candidate or political party commissions a polling organization to conduct exit polls and uses the results for election-day engineering, the cost of the service involved should be counted as an election expense for the candidate or political party concerned.

I hope my submissions together with the three annexes would be useful to all Legislative Councillors in their deliberation on the future development of exit polls in Hong Kong.

Yours sincerely,



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Director of Public Opinion Programme at the University of Hong Kong