

## Appendix

### **Case 1 – Television Programme “第一動畫樂園” broadcast on the CCTV-1 Channel of Asia Television Limited (“ATV”) on 17 May 2014 at 4:30pm – 6:00pm**

A member of the public complained that the appearance of the sponsor identification for a toothpaste brand was too frequent and exceeded the stipulated duration limit, and the display of sponsorship references in a children’s programme was in breach of the sponsorship rules.

#### **The CA’s Findings**

In line with the established practice, the CA considered the complaint case and the representations of ATV in detail. The CA took into account the relevant aspects of the case, including the following –

##### *Details of the Case*

- (a) the programme was an animation broadcast on the concerned channel which was acquired by ATV from the Mainland for direct re-transmission on its domestic free television programme service (“domestic free television service”); and
- (b) the programme was sponsored by a brand of tooth paste. Animated figures carrying the trade name of the sponsor’s product were superimposed at the bottom right corner of the screen approximately every two minutes.

***Relevant Provisions in the Generic Code of Practice on Television Advertising Standards (“TV Advertising Code”)***

- (a) paragraph 1 of Chapter 8 – unless otherwise permitted by the CA, advertising material may be placed only at the beginning or end of a programme or in a natural break occurring therein;
- (b) paragraph 2 of Chapter 8 – advertisements built into programmes of channels acquired for direct re-transmission which are produced primarily for reception outside Hong Kong and do not contribute to any advertising revenue of the licensee may deviate from the standards set out in paragraph 1 above where the licensee can demonstrate that compliance is not feasible without interrupting the licensee’s television programme services; and
- (c) paragraph 2A of Chapter 8 – paragraph 2 above does not apply to domestic free television programme services unless –
  - (i) paragraph 2A(a) - the licensee has provided a declaration to the CA that the channel is produced primarily for reception outside Hong Kong and does not contribute to any advertising revenue of the licensee;
  - (ii) paragraph 2A(b) - announcements are displayed to adequately inform viewers that advertisements may be placed within programmes at specified time, duration and frequency; and
  - (iii) paragraph 2A(c) - the aggregate advertising time during

advertising breaks of such channel does not exceed the stipulated time limits.

### **The CA's Considerations**

The CA, having regard to the relevant facts of the case, considered that –

- (a) the superimpositions of the sponsor's trade name in the programme amounted to advertising materials which were prohibited from being placed in programmes under paragraph 1 of Chapter 8 of the TV Advertising Code;
- (b) in respect of paragraph 2A of Chapter 8 of the TV Advertising Code, ATV had submitted a declaration that the concerned channel was produced primarily for reception outside Hong Kong and confirmed that it did not contribute to any advertising revenue of ATV and that the aggregate advertising time during advertising breaks of the channel did not exceed the stipulated limits. However, no announcements were displayed to inform viewers that advertisements might be placed within the programme as required under paragraph 2A(b) of Chapter 8 of the TV Advertising Code; and
- (c) ATV submitted that it was due to a technical fault by CCTV that the concerned commercial references were mistakenly placed in the programme directly transmitted to Hong Kong; and
- (d) ATV submitted that the programme under complaint targeted family members from children to adults.

## **Decision**

In view of the above, the CA decided that ATV should be **advised** to observe more closely paragraphs 1 and 2A(b) of Chapter 8 of the TV Advertising Code.

### **Case 2 – Television Programme “Vision on International Finance” (國際財經視野) broadcast on the Home and Asia Channels of ATV from January to June 2014 at 10:00pm – 10:25pm and its repeats on both Channels**

A member of the public complained that the display of the logo and website address of a subscription investment advice service in the programme gave undue prominence to the service and amounted to indirect advertising.

## **The CA’s Findings**

In line with the established practice, the CA considered the complaint case and the representations of ATV in detail. The CA took into account the relevant aspects of the case, including the following –

### ***Details of the Case***

- (a) spot check of the programme found that in the alleged segment of the concerned financial programme, a host cum financial analyst provided analysis of different stock markets by making reference to an index.

A flipcard showing the concerned index name with its website address and commercial logo was displayed. At times, such a flipcard was shown for over twenty seconds. According to the website of the concerned index, it was a subscription investment advice service; and

- (b) ATV submitted that the concerned index for the analysis of the financial market was invented and provided by the programme host. The superimposition of the concerned website during the showing of the index was to indicate the source of the financial information provider in the financial programme, which was a common practice of the industry. This was not intended to invite viewers to use the concerned service and the programme hosts never mentioned the subscription of the service in the concerned programme.

***Relevant Provisions in the Generic Code of Practice on Television Programme Standards (“TV Programme Code”)***

- (a) paragraph 1 of Chapter 11 – indirect advertising in television programmes is prohibited; and
- (b) paragraph 3 of Chapter 11 – no undue prominence may be given in any programme to a product, service, trademark, brand name or logo of a commercial nature so that the effect of such reference amounts to advertising. Such references must be limited to what can clearly be justified by the editorial requirements of the programme itself, or of an incidental nature.

**The CA’s Considerations**

The CA, having regard to the relevant facts of the case, considered that the prolonged and prominent display of the website address and the logo of the concerned index with its English and Chinese names shown on the flipcard was not justified by the editorial requirements of the concerned programme, or of an incidental nature. The CA noted that the sources of other financial data in the same programme were presented in a much smaller size. As such, undue prominence was given to the concerned index and its website. The CA considered that the effect of such amounted to advertising for the concerned index.

### **Decision**

In view of the above, the CA decided that ATV should be **advised** to observe more closely paragraphs 1 and 3 of Chapter 11 of the TV Programme Code.