

## Appendix

**Case 1: Television Programmes “6:00 News” (六點鐘新聞) broadcast on the Home and Asia Channels of Asia Television Limited (“ATV”) at 6:00pm – 6:20pm, “Main News and Weather Report” (新聞及天氣報告) broadcast on the World and Asia Channels of ATV at 7:30pm – 7:45pm and “Late News” (夜間新聞) broadcast on the Home Channel of ATV at 10:30pm – 10:55pm on 31 March 2015**

39 members of the public complained against the captioned programmes. The main allegations were that the news reports and the teloping message that ATV’s major investor and shareholder would sell controlling shares of ATV to the Chairman of Hong Kong Television Network Limited (“HKTV”) were inaccurate and misled viewers that an agreement on the sale of the ATV shares had been reached with the Chairman of HKTV, which was denied by HKTV through an announcement issued on 1 April 2015.

### **The CA’s Findings**

In line with the established practice, the Communications Authority (“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) in the “6:00 News” broadcast on 31 March 2015, it was reported at 6:00pm and at 6:12pm that the controlling shares of ATV would be sold to the Chairman of HKTV (“亞洲電視嘅控股權，將會轉讓畀香港電視主席...”). The anchor further reported that ATV received a notification

from its shareholder and its major investor that they had decided to accept the terms offered by the Chairman of HKTV and would sell the controlling shares of ATV to HKTV, pending the agreement of the Court and the Court-appointed Managers of ATV and the approval of the CA. The teloping message that the controlling shares of ATV would be transferred to the Chairman of HKTV (“亞視控股權將轉讓予港視主席”) was superimposed at the bottom of the screen occasionally during the programme;

- (b) in the “Main News and Weather Report” broadcast at 7:30pm on the same night, the reporter remarked that “ATV’s major investor sells controlling shares to HKTV boss...” and further reported that “ATV announced this evening that a deal has been struck with HKTV chairman... Major investor... and his relative and shareholder... agreed to sell ATV’s controlling shares to the HKTV boss.....The transaction requires the approval of the court and the Communications Authority”. Both programmes did not report any response from HKTV, the Court-appointed Managers of ATV or the CA;
- (c) in the “Late News” broadcast at 10:30pm on the same night, the report that ATV’s major investor and shareholder would sell ATV’s controlling shares to the Chairman of HKTV was found. In addition, the programme reported HKTV’s response that it was looking into the matter and could not reach its Chairman at that moment. The news item also included the CA’s response that no application for shareholding change had been received from ATV, and the response from the Court-appointed Managers of ATV that they had no comment at the moment;

- (d) the clarification announcement issued by HKTV on 1 April 2015 stated that with reference to a recent news report made by ATV regarding the possible involvement of HKTV in ATV (“Possible Transaction”), no agreement or agreement in principle had been reached by its Chairman with anyone with regard to the Possible Transaction; and
- (e) a principal officer of ATV responded to the media on 1 April 2015 that ATV knew on 31 March 2015 that the situation with the deal was still developing, and that the concerned news reports comprised information released unilaterally by the majority shareholder and investor of ATV without any response from the alleged buyer.

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

- (a) paragraph 1 of Chapter 9 – news programmes should offer viewers an intelligent and informed account of issues that enables them to form their own views. The licensees should ensure that news is presented with accuracy and due impartiality;
- (b) paragraph 1A of Chapter 9 – the licensees shall make reasonable efforts to ensure that the factual contents of news are accurate;
- (c) paragraph 2 of Chapter 9 – the licensees must ensure that due impartiality is preserved as respects, among others, news programmes; and
- (d) paragraph 3 of Chapter 9 – programmes or programme segments under concern should not be slanted by the concealment of facts or by

misleading emphasis.

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

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

- (a) the response of ATV's principal officer to the media on 1 April 2015 indicated that ATV was aware at the time when the concerned news was broadcast in the early evening on 31 March 2015 that no agreement had been reached between the buying and selling parties over the deal. However, it was reported in "Main News and Weather Report" at 7:30pm on 31 March 2015 that "...a deal has been struck with HKTV chairman...";
  
- (b) both the news reports broadcast at 6:00pm and 7:30pm on 31 March 2015 and the teloping message in the "6:00 News" that the controlling shares of ATV would be transferred to the Chairman of HKTV did not make it clear that the decision of ATV's shareholder and major investor to sell the controlling shares of ATV to HKTV was an unilateral one and no agreement had been reached between the buying and selling parties over the deal. There was no mention of any response from HKTV or the fact that the Chairman of HKTV could not be reached for comment at the time of the report. The remarks that the "transaction" was subject to the agreement of the Court and the Court-appointed Managers of ATV and the approval of the CA would further mislead viewers that there was an agreement between HKTV and ATV's shareholder and major investor to be approved by the relevant authorities;

- (c) in light of the above, the CA considered that the two news programmes “6:00 News” and “Main News and Weather Report” contained inaccurate information and ATV did not make reasonable effort to ensure the accuracy of the concerned reports; and that the reports were slanted by the concealment of facts or misleading emphasis, and had failed to offer viewers an informed account of the concerned issues that enabled them to form their own views. The two concerned news programmes were hence in breach of paragraphs 1, 1A, 2 and 3 of Chapter 9 of the TV Programme Code; and
- (d) there was no breach in respect of the programme “Late News” which had reported HKTv’s response and quoted the response from the CA and the Court-appointed Managers of ATV.

### **Decision**

Taking into consideration that (i) the concerned news was a subject of significant public importance and was broadcast at the critical moment before the Chief Executive in Council took a decision on the renewal of ATV’s domestic free television programme service licence; (ii) the severity of the lapse given that ATV presented the concerned news about itself in an inaccurate and misleading manner; and (iii) the relevant precedents, the CA decided that a **financial penalty of HK\$300,000** should be imposed on ATV for breaching paragraphs 1, 1A, 2 and 3 of Chapter 9 of the TV Programme Code.

**Case 2 – Radio Programme “Circles” (1 圈圈) broadcast on the CR 1 Channel of Hong Kong Commercial Broadcasting Company Limited (“CRHK”) on 13 – 17 and 20 – 22 October 2014 at 10:30am – 12:00pm**

A member of the public complained that the programme gave undue prominence to a standup show 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 CRHK in detail. The CA took into account the relevant aspects of the case, including the following –

*Details of the Case*

- (a) the radio programme was an entertainment news programme. One of the programme hosts was also the host of the concerned standup show (“the Show”) organised by, among others, CRHK. The theme song of the Show, preceded and followed by a remark informing listeners of the title of the Show and the date from which tickets of the Show were available for sale (i.e. 22 October 2014), was broadcast in all the eight editions of the programme under complaint;
- (b) in the editions broadcast during the week of 13 to 17 October 2014, in a game played in association with the Show, the hosts also made references to the Show and the date from which tickets were available for sale and appealed to listeners to support the Show; and

- (c) in the editions broadcast on 20 to 22 October 2014, the hosts talked about the press conference of the Show held on 21 October 2014. They remarked that they were anxious to get tickets of the Show and urged listeners to purchase tickets at URBTIX at once. The date from which tickets were available for sale was repeatedly mentioned.

***Relevant Provision in the Radio Code of Practice on Programme Standards (“Radio Programme Code”)***

- (a) paragraph 41 – no undue prominence may be given in any programme to a product, service, trademark, brand name or logo of a commercial nature or a person identified with the above 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 it was editorially justified to include updates and tidbits about showbiz events like the Show in an entertainment news programme. However, the repeated references to the Show in each and every edition of the programme under complaint, including the Show’s title, venue and date for ticket sale, and the hosts’ appeal to the audience to support the Show and to purchase tickets quickly, were not incidental. They could not be clearly justified by the editorial requirement of the programme, had given undue prominence to the Show and had the effect of advertising for the Show.

## **Decision**

In view of the above and taken into account the precedent cases, the CA decided that CRHK should be **strongly advised** to observe more closely the relevant provision of the Radio Programme Code.