

## Appendix

### **Case 1 – Television Programme “Pentaprism” (左右紅藍綠) of Radio Television Hong Kong (“RTHK”) broadcast on the Jade Channel of Television Broadcasts Limited (“TVB”) from 1:20pm to 1:25pm on 3 August 2015**

Two members of the public complained against the programme about a woman being convicted of assaulting a police officer with her breasts during a protest against parallel traders. The substance of the complaints was that the remarks of the guest hostess were groundless, biased towards women and unfair to the magistrate concerned, and would affect the enforcement of law by the police.

#### **The CA’s Findings**

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

##### *Details of the Case*

- (a) the concerned programme was identified as a personal view programme (“PVP”). In the concerned edition, the guest hostess was of the view that the accusation against the concerned woman was against common sense and that the incident was caused by the improper enforcement actions of the police. She also commented that the language used in

the magistrate's judgment lacked gender sensitivity and the magistrate had failed to take into account the concerned woman's indecent assault complaint; and

- (b) RTHK submitted that the guest hostess presented the views of a feminist group on the concerned issue. Due to a long programme break for its other television programmes at that time and the need to cover other pressing issues during that week, the concerned issue had not been discussed in other editions of the concerned programme and RTHK did not see any editorial need for presenting an opposite view which was different from that of the guest hostess.

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

paragraph 17 of Chapter 9      the following rules apply to all PVPs on matters of public policy or controversial issues of public importance in Hong Kong:

- (a) the nature of a PVP must be clearly identified at the start of the programme;
- (b) facts must be respected and the opinions expressed, however partial, should not rest upon false evidence in a PVP;

(c) a suitable opportunity for response to the programme should be provided in the same programme, in the same series of programmes or in similar types of programmes targeting a like audience within an appropriate period; and

(d) licensees should be mindful of the need for a sufficiently broad range of views to be expressed in any series of PVPs.

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

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

- (a) since the concerned issue was widely reported in the media, it should be considered as a controversial issue of public importance in Hong Kong. The rules governing PVPs should apply to the concerned edition of the programme;
- (b) the hostess' concerned criticisms against the police and the magistrate's judgment were identified as her personal views. There was no indication that her views were based upon false evidence. As such, the personal views of the hostess were not unacceptable for broadcast in a PVP;
- (c) paragraph 17(c) of the PVP rules specifies that a suitable opportunity

for response to a PVP should be provided in the same programme, in the same series of programmes or in similar types of programmes targeting a like audience within an appropriate period. The provision provides sufficient flexibility for broadcasters to meet the requirement. Nonetheless, RTHK did not see any editorial need to present an opposite view that was different from that of the hostess. There was a breach of paragraph 17(c) of the PVP rules; and

- (d) while the hostess' freedom of expression should be respected in the concerned PVP, RTHK should be mindful of the need to present a sufficiently broad range of views on a controversial issue in any series of PVPs. As no other views on the concerned issue were included in other TV programmes of RTHK at the material time, there was a breach of paragraph 17(d) of the PVP rules.

## **Decision**

In view of the above, the CA considered that the complaints were **justified** and decided that RTHK should be **strongly advised** to observe more closely paragraphs 17(c) and 17(d) of Chapter 9 of the TV Programme Code.

**Case 2 - Television Programmes “Late News” (晚間新聞) broadcast on the I News Channel of TVB from 11:30pm to 12:00 midnight on 22 November 2015 and “Overnight News” (深宵新聞報道) broadcast on the I News Channel of TVB and TVBN Channel of TVB Network Vision Limited (“TVBNV”) from 1:30am to 3:30am on 23 November 2015**

Four members of the public complained against the captioned programmes. The main allegation was that the concerned news programmes erroneously reported that a certain candidate (“the concerned candidate”) was the elected District Council (“DC”) member in the DC Election held on 22 November 2015. The broadcast of the erroneous election result was misleading and would be unfair to other candidates of the concerned constituency.

**The CA’s Findings**

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

*Details of the Case*

- (a) there were two counting stations in the concerned constituency and another candidate (“the elected candidate”) was the elected DC member;
- (b) under the heading of the concerned constituency, the number of votes for the elected candidate and the concerned candidate was shown and the caption “當選” (elected) was displayed alongside the concerned

candidate's name and photograph in a split screen in the programme "Overnight News" broadcast on TVB I News Channel at 1:43am and 1:52am on 23 November 2015. However, the number of votes shown was only the vote counts at one of the two counting stations of the concerned constituency; and

- (c) a reporter remarked that the concerned candidate was elected at 2:23am in the programme "Overnight News" broadcast on both TVB I News and TVBNV TVBN Channels.

### ***Relevant Provisions in the TV Programme Code***

- (a) paragraph 1A of Chapter 9 – the licensee shall make reasonable efforts to ensure that the factual contents of news are accurate; and
- (b) paragraph 9 of Chapter 9 – the licensee has a responsibility to avoid unfairness to individuals or organisations featured in factual programmes, in particular through the use of inaccurate information or distortion. They should also avoid misleading the audience in a way which would be unfair to those featured in the programme.

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

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

- (a) the number of votes for the two concerned candidates and the caption “當

選” (elected) broadcast at 1:43am and 1:52am on TVB I News Channel, and the remark that the concerned candidate was elected broadcast at 2:23am on both the channels of TVB and TVBNV contained clear factual errors. There was a breach of the relevant provision governing accuracy of news contents; and

- (b) as the erroneous information was broadcast after the poll had ended, it was unlikely that the erroneous information would affect the election results and render the concerned news reports unfair to any individuals concerned.

## **Decision**

In view of the above, the CA considered that the complaints were justified. Taking into consideration the relevant precedents, the CA decided that both TVB and TVBNV should be **strongly advised** to observe more closely paragraph 1A of Chapter 9 of the TV Programme Code.

**Case 3 – Television Programme “Scoop” (東張西望) broadcast on the Jade Channel of TVB from 7:30pm to 8:00pm on 14 October 2015**

A member of the public complained against a segment about the frequent lift problems in Tin Ping Estate in the programme. The substance of the complaint was that when comparing the number of lift incidents in the concerned estate in 2014 and the total number of lift incidents in Hong Kong recorded by the Electrical and Mechanical Services Department (“EMSD”) in the same year, the programme segment remarked that the responsible person for the lifts had to notify the Director of Electrical and Mechanical Services (the “Director”) in writing within 24 hours after a lift incident came to the person’s knowledge, without clarifying the definition of the term “incident” as set out in the Lifts and Escalators Ordinance (Cap. 618) (the “Ordinance”), and drew the conclusion that the concerned figures published by EMSD could not reflect the actual situation. The complainant alleged that the concerned segment might mislead the public that all lift malfunctions were required to be reported to EMSD, EMSD was ineffective in its enforcement actions, and the concerned responsible person for the lifts in Tin Ping Estate had not acted in accordance with the law.

**The CA’s Findings**

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

*Details of the Case*



- (a) the concerned programme was an infotainment programme on social issues and showbiz gossips. The concerned segment focused on the lift problems in Tin Ping Estate, with residents talking about their worries about the frequent lift problems in the concerned estate and an interviewee criticising the service of the lift contractor of the concerned estate;
- (b) near the end of the segment, the voice-over compared the number of lift incidents in Hong Kong in 2014 recorded by EMSD with that in Tin Ping Estate compiled by its Owners' Corporation, and remarked that the number of lift incidents in the concerned estate was more than double of the territory-wide figure announced by the Government. The voice-over further commented that the responsible person for the lifts should notify EMSD within 24 hours of lift malfunctions, that EMSD would have no record of lift incidents if the responsible person did not notify EMSD, and that the territory-wide figure published by the Government could not reflect the actual situation;
- (c) the Ordinance specifies the types of lift incidents which are required to be reported to the Director by the responsible person, including lift incidents causing human death or injury, and those involving failure of the major machine parts of a lift;
- (d) TVB submitted that the sources of the two sets of lift incident figures were spelt out in the concerned programme segment, and the term "incident" used therein was expressed in a general sense; and

- (e) according to the expert advice sought by the CA, EMSD's statistics for lift incidents as mentioned or shown in the concerned programme segment referred to the number of lift incidents reported to the Director as specified in the Ordinance, and minor lift incidents did not belong to the types of incidents that should be reported to the Director.

***Relevant Provisions in the TV Programme Code***

- (a) paragraph 9 of Chapter 9 – the licensees have a responsibility to avoid unfairness to individuals or organisations featured in factual programmes, in particular through the use of inaccurate information or distortion. They should also avoid misleading the audience in a way which would be unfair to those featured in the programme;
- (b) paragraph 15 of Chapter 9 – licensees should take special care when their programmes are capable of adversely affecting the reputation of individuals, companies or other organizations. Licensees should take all reasonable care to satisfy themselves that all material facts are so far as possible fairly and accurately presented; and
- (c) paragraph 16 of Chapter 9 – where a factual programme reveals evidence of iniquity or incompetence, or contains a damaging critique of an individual or organization, those criticized should be given an appropriate and timely opportunity to respond.

## **The CA's Considerations**

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

- (a) the concerned segment compared two sets of lift incident figures, viz. lift incidents that occurred in Tin Ping Estate and those cases which were reported to EMSD under the Ordinance, and remarked that the difference between the two sets of figures might be due to the failure of the responsible person for the lifts to report all the lift incidents to EMSD. The voice-over did not mention that the responsible person for the lifts was only required to report to EMSD those incidents as specified in the Ordinance, and such incidents were not the same as those lift incidents in Tin Ping Estate that were mentioned in the programme. As such, the two sets of lift incident figures were clearly different in nature and could not be compared directly; and
  
- (b) under such circumstances, the concerned remarks that the responsible person for the lifts did not report all the lift incidents to EMSD and the territory-wide figure published by the Government could not reflect the actual situation would mislead the audience in a way which would be unfair to EMSD and the responsible person for the lifts in Tin Ping Estate. Such programme contents were capable of adversely affecting the reputation of the concerned parties. TVB had not taken reasonable care to satisfy itself that all material facts in the programme segment were presented fairly and accurately, and the concerned parties were not given an appropriate and timely opportunity to respond.

## **Decision**

In view of the above, the CA considered that the complaint was **justified**. Taking into consideration the precedents and the impact of the lapse, the CA decided that TVB should be **advised** to observe more closely paragraphs 9, 15 and 16 of Chapter 9 of the TV Programme Code.