

Appendix

Case 1 – Television Programme “TV Awards Presentation 2015” (萬千星輝頒獎典禮 2015) broadcast on the Jade and HD Jade Channels of Television Broadcasts Limited (“TVB”) on 13 December 2015 at 8:00 pm to 10:30 pm and repeated on 9 February 2016 at 10:15 am to 12:45 pm

15 members of the public complained that the brand logo of a fried chicken chain was conspicuously and blatantly shown, which was gratuitous, obtrusive to viewing pleasure, without editorial justification, and amounting to indirect advertising for the concerned brand.

The Communications Authority (“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 a livecast of TVB’s annual award presentation ceremony;
- (b) the concerned fried chicken chain was identified as the product sponsor in the end credits of the programme; and
- (c) in a segment, a female host remarked that while the artistes were anxiously awaiting the announcement of the major awards, she would

give them a good treat. Then several assistants marched in carrying trays stacked with boxes of food. The logo of the concerned fried chicken chain was clearly shown on the food boxes. There were also medium to close-up shots showing the artistes eating and passing the food around enthusiastically, and the brand logos on the food boxes and soft drink cups were clearly shown. The whole segment lasted for about 1 minute and 12 seconds.

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

- (a) paragraph 1 of Chapter 11 – indirect advertising in television programme is prohibited; and

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

- (a) paragraph 10(a) of Chapter 9 – the exposure or use of the sponsors’ products and/or services within a programme should be clearly justified editorially, not obtrusive to viewing pleasure and not gratuitous.

The CA’s Considerations

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

- (a) the insertion of the segment showing dressed up artistes consuming fried chicken in the award presentation ceremony was gratuitous, not justified editorially and obtrusive to viewing pleasure;

- (b) the female host made the complimentary remark “good treat” twice when she referred to the food to be served to the artistes. There were continuous and gratuitous medium to close-up shots focusing on the brand logo of the sponsor on the food boxes when the food was delivered to the artistes. The brand logo of the sponsor was prominently and conspicuously displayed in the middle of the screen for around 10 seconds to draw viewers’ attention to the sponsor and its products. Such prominent exposure of the sponsor’s brand logo and products with the complimentary remark made by the female host constituted blatant advertising material for the sponsor’s products;
- (c) the programme segment in question was intentionally designed and inserted into the concerned TV award presentation ceremony to cater for the exposure of the sponsor’s brand logo and products. The deliberate inclusion of such a segment in the concerned programme without any editorial need but to draw viewers’ attention to the sponsor’s logo and products constituted a serious breach of the provisions of the TV Programme and Advertising Codes that govern indirect advertising and product/service sponsorship; and
- (d) the CA had expressed serious concern over TVB’s repeated breaches of the provisions governing indirect advertising and product/service sponsorship. The CA had also repeatedly reminded TVB that indirect advertising was strictly prohibited under the TV Programme Code and broadcasters should comply fully with the relevant provisions in the TV Advertising Code in respect of product/service sponsorship, and that the CA would consider imposing heavier sanctions for any further breach

of the relevant provisions having regard to, among others, the nature and severity of the breach, and the licensee's past record of non-compliance.

Decision

In view of the above, and taking into account TVB's repeated breaches of the provisions that govern indirect advertising and product/service sponsorship and its representations, the CA decided that a **financial penalty of \$150,000** should be imposed on TVB for breaching the relevant provisions in the TV Programme and Advertising Codes.

Case 2 – Television Programme “Below The Lion Rock 2015” (獅子山下 2015) of Radio Television Hong Kong (“RTHK”) broadcast on the Jade Channel of TVB and the TV 31 Channel of RTHK at 7:30 pm to 8:30 pm and 9:00 pm to 10:00 pm respectively on 14 November 2015

Five members of the public complained against the programme. The main allegations were that the programme was overly horrifying, frightening, unsuitable for broadcast during prime time or the family viewing hours (the “FVH”); terrified children and gave them nightmares; and contained violent scenes but was not classified into Parental Guidance Recommended (“PG”) category when it was broadcast on RTHK TV 31.

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 programme was a fictitious drama broadcast on TVB Jade during the FVH and on RTHK TV 31 outside the FVH. It revolved around the story of an investor who speculated in “haunted” apartments. The investor moved into a flat where the previous occupant, a stewardess, was murdered in order to persuade a potential buyer that the flat was not haunted;
- (b) an advisory announcement alerting viewers to violent and horrifying

materials was shown at the beginning of the programme broadcast on both channels. Against dimly lit settings and suspenseful background music and/or appalling sound effects, there were portrayals of the stewardess walking through a quiet car park and a corridor, and taking an elevator to go home nervously; the investor cleaning red stains on the floor of the haunted apartment and answering doorbell to find that no one was at the door; the suspected spirit of the stewardess appearing beside the investor when he was burning paper offerings, etc. In a scene inside the haunted apartment which lasted for about 3 minutes, the investor was terrified by what he saw, including red liquid running from the tap in the bathroom, red words on a glass door threatening him to move out of the apartment, and a female walking towards him and turning into a wisp of red smoke. In an auction venue, there were portrayals of a group of people in white clothes against green lighting effect pestering the investor and asking him whether he would speculate in tombs;

- (c) regarding the allegation on violence, there were portrayals of a person walking into the bedroom of the stewardess at night with a knife in hand and close-up shot of a hand stabbing downwards. No actual depiction of stabbing the stewardess was shown. There were also brief depictions of an assistant of the investor being chased, kicked, punched and pushed and of the stewardess being pushed into the pool and pressed down into the water; and
- (d) RTHK submitted that it did not have any intention to frighten the audience, and the depictions of spirits were used as a tactic to draw the audience's attention to the distorted human nature in the haunted

property market.

Relevant Provisions in the TV Programme Code

- (a) paragraph 2 of Chapter 2 – nothing unsuitable for children should be shown during the FVH;
- (b) paragraph 3 of Chapter 2 – morbid sound effects intended to anticipate or simulate death or injury, the use of the supernatural or superstition so as to arouse anxiety or fear, and any matter likely to lead to hysteria, nightmares or other undesirable emotional disturbances in children are some of the reasons for a programme to be considered unsuitable for family viewing;
- (c) paragraph 8 of Chapter 6 – violence may not be presented in such a manner as to cause alarm or distress to children within the FVH, and at other times any portrayal of violence must not be too frequent or impactful and must be essential to the story line or programme context;
- (d) paragraph 1 of Chapter 7 – the licensee should be vigilant on the likely effects of all material shown on television on children;
- (e) paragraph 3 of Chapter 8 – programmes which are not generally suitable for viewing by children must be classified into “PG” category according to the standards in the same Chapter which included paragraph 4(k) on the depiction of the supernatural; and
- (f) paragraph 4(k) of Chapter 8 – fictional depiction of exorcism, psychic

or occultic practice and the supernatural should not be overly realistic in a “PG” programme so as to unsettle young minds. In certain cases, clear advance warnings should be provided.

The CA’s Considerations

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

- (a) although most of the contents of the programme were shown in daily life settings with no horrific images, the gruesome atmosphere of the ghostly scenes against realistic settings, gloomy lighting and appalling sound effects (in particular the approximately 3-minute sequence featuring the investor’s encounter with the spirit of the deceased stewardess in the haunted apartment where the stewardess was murdered) were frightening to some viewers, especially children. The concerned portrayals exceeded the acceptable bound for materials to be broadcast during the FVH when children might watch television without parental guidance, and such materials rendered it necessary for the programme to be classified into PG category when it was broadcast outside the FVH;
- (b) the inclusion of an advisory announcement at the beginning of the programme which advised viewers that the programme contained violent and frightening materials would not render the programme suitable for broadcast within the FVH; and
- (c) the portrayals of violence were brief and contextually justified for plot development and characterisation purposes, and were acceptable for

broadcast at the scheduled time slots, including within the FVH.

Decision

In view of the above, the CA considered that the complaints were justified. Taking into consideration the relevant precedent and the likely effects of the horrifying materials on young viewers, the CA decided that RTHK should be **strongly advised** to observe more closely paragraphs 2 and 3 of Chapter 2, paragraph 1 of Chapter 7, and paragraphs 3 and 4(k) of Chapter 8 of the TV Programme Code.

Case 3 – Television Programmes “Good Morning Hong Kong” (香港早晨) and “News Report” (新聞報道) broadcast on the I News Channel of TVB from 8:00 am to 12:00 noon on 23 November 2015

Two members of the public complained that the concerned news programmes showed an erroneous number of votes received by a candidate who was elected in the 2015 District Council (“DC”) Election and an erroneous caption that another candidate was elected for the concerned constituency.

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 alleged erroneous number of votes for the elected candidate, and the erroneous display of the caption “當選” (elected) alongside the name and photograph of another candidate, had been shown in the split screen of the concerned news programmes for six times from 8:07 am to 11:36 am;
- (b) the correct election result of the concerned constituency was found at 12:18 pm in the programme “Noon News” (午間新聞); and
- (c) TVB admitted that the lapse was caused by an operational error in entering the number of votes for the elected candidate.

Relevant Provision 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.

The CA's Considerations

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

- (a) although the lapse would not have affected the election results of the concerned constituency, the news programmes contained clear factual errors; and
- (b) although the concerned voting results had already been announced earlier on 23 November 2015, the inaccurate information had been broadcast for six times from 8:07 am to 11:36 am, and TVB only corrected the error at 12:18 pm. TVB had not made reasonable efforts to ensure that the concerned factual contents of the news programmes were accurate.

Decision

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

**Case 4 - Television Programme “now Noon News” (now 午間新聞)
broadcast on now News Channel of PCCW Media Limited (“now TV”)
from 12:00 noon to 12:20 pm on 21 November 2015**

A member of the public complained that in a news item about the 2015 DC Election, the photographs of three candidates in a constituency did not match with the names in the photograph captions.

The CA’s Findings

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

Details of the Case

- (a) the concerned news programme was broadcast on 21 November 2015, the day before the DC Election on 22 November 2015;
- (b) in the programme, there was a 3-minute segment which reported the challenges faced by the members in the second echelon of two political parties in different constituencies;
- (c) the segment briefly introduced the four candidates contesting in a constituency. The photograph of each of the four candidates was shown against a caption containing the candidate’s name and political affiliation. While the photograph and caption of one of the candidates were correctly shown, the photographs and captions of the other three candidates were

mismatched;

- (d) the same segment was broadcast twice per hour on the same channel from 10:00 am to 3:00 pm on that day; and
- (e) now TV apologized for the unintentional lapse and submitted that the news item was stopped after 4:00 pm on that day.

Relevant Provision 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.

The CA's Considerations

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

- (a) the mismatched photographs and names of three of the candidates contained clear factual errors; and
- (b) while the concerned factual errors might not have a significant effect on the election results in the concerned constituency, now TV should be reminded to be more careful when reporting election-related news, particularly before the polling day.

Decision

In view of the above, the CA considered that the complaint was justified. Taking into consideration the relevant precedents and the impact of the lapse,

the CA decided that now TV should be **advised** to observe more closely paragraph 1A of Chapter 9 of the TV Programme Code.