

**Case 1 – Television Programme “My Love, myTV SUPER” (myTV SUPER 呈獻：萬千星輝睇多 D) broadcast on the Jade Channel of Television Broadcasts Limited (“TVB”) at 8:30 pm to 10:30 pm on 17 April 2016**

23 members of the public complained about the captioned programme. The main allegation was that the two-hour programme mingled advertising and programme materials to promote the product/service of the sponsor of the concerned programme, a pay over-the-top television programme service (the “OTT Service”) which was not part of the domestic free television programme (“free TV”) service of TVB. Complainants alleged that the exposure of the sponsor’s product/service/logo; the abundant favourable remarks about the OTT Service; the broadcast of trailers of programmes to be shown on the OTT Service; the display of its set-top-box; and its logo shown on the backdrops, were editorially unjustified, gratuitous and amounted to advertising material. Complainants complained that the concerned programme amounted to a deliberate attempt to advertise the OTT Service.

**The Communications Authority (“CA”)’s Findings**

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

***Details of the Case***

- (a) the programme under complaint was a two-hour live variety show. The OTT Service was identified as a product sponsor in the end credits of the concerned programme. The sponsor’s name was incorporated

into the title of the programme, and its name and logo were seen on various backdrops, including on a giant screen placed at the centre of the stage;

- (b) the pay OTT Service was provided by TVB.COM Limited, a wholly-owned subsidiary of TVB. When the OTT Service was launched on 18 April 2016, it offered 33 channels, including TVB's five digital free TV channels, and 28 other thematic channels which were not available on TVB's free TV service. It provided different subscription packages, including subscription video-on-demand ("SVOD") services;
- (c) the concerned programme was broadcast on 17 April 2016, one day before the official launch date of the OTT Service. A hostess introduced the show with the opening remarks that the OTT Service was a brand new OTT platform which would be launched on 18 April 2016. She described this as a "spectacular event" for the local television industry and highlighted that the OTT Service provided a new TV viewing experience. Various channels to be broadcast on the OTT Service were then introduced, and artistes' recommendations and programme excerpts were shown. During the show, the hosts and artistes mentioned the name of the OTT Service over 40 times, repeatedly mentioned its launch date, and frequently chanted its advertising slogans;
- (d) the hosts and artistes recapitulated that the OTT Service provided 33 channels and 11,000 hours of programmes on demand and that 4K quality programmes were available via its set-top box. The concerned programme also contained demonstrations on how to use the SVOD

service and playback function of the OTT Service;

- (e) the concerned programme ended with a song performed by artistes, which contained repeated promotional lyrics about the OTT Service. The hosts also made favourable concluding remarks about the OTT Service; and
- (f) TVB submitted that the programme was a variety show aimed at delivering entertainment and disseminating information of interest to the public. TVB argued that the show was similar to a programme parade showcasing what TVB, as a major television programme service provider in Hong Kong, had to offer to viewers. The show featured highlights from programmes to be broadcast on both the domestic free platform and OTT online service.

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

- (a) paragraph 1 of Chapter 11 – indirect advertising, which refers to the mingling of programme and advertising material or the embedding of advertising material within programme content, whether inadvertently or by design, is prohibited;

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

- (a) paragraph 2(c) of Chapter 2 – for the purpose of this Code, the term advertisement or advertising material does not include material for the promotion of the licensee’s station and/or programme services; and

- (b) paragraph 10(a) of Chapter 9 – the exposure or use of the sponsor’s products and/or services within programmes 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 concerned programme, which was a variety show and like a programme parade, was promotional in nature;
- (b) the concerned product/service sponsor was a pay OTT Service which broadcast a vast collection of video programmes and thematic channels which were not available on TVB’s free TV service. It was operated by a separate company which was a subsidiary of TVB. In other words, the OTT Service and TVB’s free TV service were separate services operated by different companies, and the OTT Service was not part of TVB’s free TV service. The promotion of the OTT Service could not therefore be considered as material for the promotion of TVB’s free TV service and be exempted from the definition of advertising material under paragraph 2(c) of Chapter 2 of the TV Advertising Code;
- (c) the references to the OTT Service in the programme under complaint should therefore be considered with reference to the provisions governing programme sponsorship and indirect advertising. TVB appeared to have acknowledged this fact, as it identified the OTT

Service as a product sponsor of the concerned programme;

- (d) TVB submitted that all programme content introduced during the show would also be broadcast on its free TV channels. However, the CA found that the show introduced programmes carried by a large number of thematic channels which were not part of TVB's free TV service. In addition, the hosts and artistes in the show emphasised that some of the programmes which would be broadcast on the OTT Service were either designed or telecast exclusively for the OTT Service;
- (e) the concerned programme had the effect of promoting the OTT Service, including its programmes, channel line-up and special features. The show included prominent standalone displays of the name and logo of the OTT Service, and specific references to its service commencement date, advertising slogan and features. The hosts and artistes frequently made positive remarks about its programmes and functions and gave detailed demonstrations of its SVOD service and playback function. Although the programme contained factual information, it was slanted so as to promote the OTT Service; and
- (f) the entire programme was designed to promote the sponsor's service. As a variety show, the exposure of the OTT Service in the programme was editorially unjustified and gratuitous. It constituted a blatant breach of paragraph 10(a) of Chapter 9 of the TV Advertising Code governing the exposure or use of the sponsor's products and/or services within a programme. The concerned programme also breached paragraph 1 of Chapter 11 of the TV Programme Code because there was mingling of programme and advertising material and embedding of

advertising material within the programme content.

## **Decision**

In view of the above, the CA considered that the complaints were justified. Having considered the relevant facts of the case, in particular the severity of the breaches, and taking into account TVB's repeated contraventions of the sponsorship and indirect advertising provisions in the relevant Codes of Practice, the CA decided that a **financial penalty of \$200,000** should be imposed on TVB for breaching the relevant provisions of the Codes in this case.

**Case 2 – Television Programme “myTV SUPER All Star Summer” (myTV SUPER 呈獻：萬千星輝放暑假) broadcast on the Jade Channel of TVB at 8:00 pm to 9:30 pm on 17 July 2016**

33 members of the public complained about the captioned programme. The main allegation was that the 90-minute programme mingled advertising and programme materials to advertise the product/service of the sponsor of the concerned programme, a pay OTT Service which was not part of the free TV service of TVB. Complainants alleged that the programme contained frequent and detailed references to the exclusive programmes and content shown on the OTT Service, introduced exclusive benefits for its customers, and frequently mentioned the name and showed the trademark of the OTT Service. Complainants also complained that the programme contained references to the functions of the OTT Service, and a solicitation to viewers to subscribe to the OTT Service.

**The CA’s Findings**

In line with the established practice, the CA considered the complaint case and the representations provided by 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 90-minute live variety show. The OTT Service was identified as a product sponsor in the end credits of the programme. The sponsor’s name was incorporated into the title of the programme, and its name and logo were seen on various backdrops and in different short clips about the new content and channels shown on the OTT Service;

- (b) the pay OTT Service was provided by TVB.COM Limited, a wholly-owned subsidiary of TVB. When the concerned programme was broadcast on 17 July 2016, the OTT Service offered 39 channels, including TVB's five digital free TV channels and 34 other thematic channels which were not available on TVB's free TV service. It provided different subscription packages, including SVOD services;
- (c) the concerned programme was broadcast on 17 July 2016, viz. three months after the launch of the OTT Service on 18 April 2016. At the start of the programme, a host said that the programme would inform viewers about the "new" and "fascinating" contents of the OTT Service. A hostess also mentioned that the OTT Service had been operating for almost 100 days, that during that time its service had increased from 33 channels to 39 channels, that the OTT Service had prepared "wonderful" content for viewers this summer and would continue to deliver high quality and meaningful programmes to viewers. A song containing favourable lyrics about the OTT Service was performed by artistes;
- (d) the concerned programme used live performances, chitchat amongst artistes and short clips to introduce new SVOD content, thematic channels and exclusive content relating to two beauty pageants and the 2016 Rio Olympic Games which were only available on the concerned OTT Service. The name and logo of the OTT Service were frequently shown in the short clips. During the 90-minute programme, the name of the OTT Service was mentioned over 40 times;
- (e) towards the end of the first part of the concerned programme, the hostess remarked that the OTT Service would be offered free of charge to users downloading its mobile app until 30 September 2016. She



also demonstrated how to download the concerned mobile app using an enlarged graphic on a screen, with the logo of the OTT Service displayed. She then urged viewers to download the concerned mobile app. The website address of the OTT Service was superimposed at the upper left corner of the screen throughout the concerned segment, which lasted for about one minute;

- (f) a short clip describing the exclusive benefits for customers of the OTT Service, such as free overseas trips, special offers on dining, accommodation, entertainment and spas, as well as tickets to overseas variety programmes, fashion shows and other events, was shown. Footage of an event for customers of the OTT Service held on the same night at a local shopping mall was also shown, in which the logo of the OTT Service was discernible occasionally. Afterwards, the hosts in the studio mentioned that the OTT Service would hold further VIP events for its customers; and
- (g) TVB submitted that the two-hour programme was intended to be a star-studded variety show of outstanding value, delivering entertainment and imparting information of interest to the public.

***Relevant Provision in the TV Programme Code***

- (a) paragraph 1 of Chapter 11 – indirect advertising, which refers to the mingling of programme and advertising material or the embedding of advertising material within programme content, whether inadvertently or by design, is prohibited;

***Relevant Provisions in the TV Advertising Code***

- (a) paragraph 2(c) of Chapter 2 – for the purpose of this Code, the term advertisement or advertising material does not include material for the promotion of the licensee’s station and/or programme services; and
- (b) paragraph 10(a) of Chapter 9 – the exposure or use of the sponsor’s products and/or services within programmes 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 programme under complaint was a variety show which was promotional in nature;
- (b) the concerned product/ service sponsor was a pay OTT Service which broadcast a vast collection of video programmes and thematic channels which were not available on TVB’s free TV service. It was operated by a separate company which was a subsidiary of TVB. In other words, the OTT Service and TVB’s free TV service were separate services operated by different companies, and the OTT Service was not part of TVB’s free TV service. The promotion of the OTT Service could not therefore be considered as material for the promotion of TVB’s free TV service and be exempted from the definition of advertising material under paragraph 2(c) of Chapter 2 of the TV Advertising Code;
- (c) the references to the OTT Service in the programme under complaint should therefore be considered with reference to the provisions

governing programme sponsorship and indirect advertising. TVB appeared to have acknowledged this fact, as it identified the OTT Service as a product sponsor of the programme;

- (d) while the programme contained live stage performances which were similar to other variety shows, it deliberately introduced new and upcoming content broadcast on the OTT Service, sometimes with specific reference to the fact that such content was exclusively available on the OTT Service. The sponsor's name and logo were frequently mentioned and displayed in the programme;
- (e) the concerned programme highlighted exclusive benefits for customers of the OTT Service, and the event held at the shopping mall was shown as an example of such benefits. These segments of the concerned programme were specifically designed to provide up-to-date information on the sponsor's exclusive services to its customers for promotional purposes;
- (f) regarding the introduction of the free trial of the OTT Service provided on its mobile app in the programme, TVB submitted that the free offer was a goodwill gesture and was in line with viewers' interests. While this might be the case, the clear purpose of such a free offering was to promote the sponsor's OTT Service and invite viewers to download the mobile app; and
- (g) the concerned programme extensively and blatantly promoted the OTT Service. This was in breach of paragraph 10(a) of Chapter 9 of the TV Advertising Code which stipulates that the exposure or use of the sponsor's products and/or services within a programme should be

clearly justified editorially, not obtrusive to viewing pleasure and not gratuitous. The concerned programme also breached paragraph 1 of Chapter 11 of the TV Programme Code because there was mingling of programme and advertising material and embedding of advertising material within the programme content.

## **Decision**

Having considered the full circumstances of the case, the provisions of the Codes of Practice and the representations of TVB, the CA considered that the complaints were justified and that in broadcasting the programme in question, TVB blatantly breached the relevant provisions of the Codes of Practice.

Regarding the sanction, the CA noted that the presentation of the OTT Service in the concerned programme was similar to that in TVB's programme "My Love, myTV SUPER" covered in another complaint case. Although it was open to the CA, considering each complaint on a case by case basis, to impose separate and different sanctions on TVB for the two cases of contravention of the relevant provisions in the TV Programme and the TV Advertising Code, the CA noted that at the time when "myTV SUPER All Star Summer" was broadcast, TVB had yet to be informed of the CA's provisional findings of its breaches in the case concerning "My Love, myTV SUPER". Having taken this factual context into account and balanced all relevant considerations, the CA was prepared to treat this case of contravention on an exceptional basis, and decided that **no further action** would be taken against TVB as sanction for the breaches. TVB was however reminded of its responsibility as a licensee to ensure that all materials delivered on its licensed services should comply with the relevant Codes of Practice.

The CA's handling of the present case should not in any circumstances be taken as the precedent for future cases that involve TVB, or any other broadcasting licensee. Licensees should not assume that they may rely on the mere fact that they have not been informed of the outcome of a previous breach in harbouring any expectation that no sanction would be imposed on them for a similar breach they commit later.

**Case 3 – Television Programmes “Scoop” (東張西望) broadcast on the Jade Channel of TVB at 7:30 pm to 8:00 pm on 15, 22, 28 and 29 March, 5, 6, 13, 18, 19, 21, 25 and 27 April, and 4, 11, 17 and 18 May 2016 and on the Jade Catch Up Channel of TVB Network Vision Limited (“TVBNV”) at 11:30 pm to 12:00 midnight on 18, 19 and 21 April, 17 and 18 May 2016<sup>1</sup>; and “Extra” (娛樂頭條) broadcast on the Jade Channel of TVB at 12:00 am to 12:15 am on 26 April 2016**

Six members of the public complained about the exposure of a product/service sponsor of the concerned programmes, a pay OTT Service, in the captioned 16 editions of “Scoop” and in one edition of “Extra”. The main allegations were that –

- (a) the segments in various editions of the concerned programmes were broadcast to promote the OTT Service, which was obtrusive to viewing pleasure and amounted to indirect advertising;
- (b) the frequent exposure of the product/service/logo of the OTT Service was editorially unjustified, gratuitous and amounted to advertising material; and
- (c) some of the concerned segments also promoted two internet service providers (“ISPs”) which were business partners of the OTT Service.

### **The CA’s Findings**

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

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<sup>1</sup> “Scoop” was also rerun on the same channel of TVBNV at various timeslots on the next day.

*Details of the Case*

- (a) the programme “Scoop” was an infotainment programme on social issues and showbiz gossip, and the programme “Extra” was an entertainment programme featuring showbiz gossip;
- (b) the OTT Service and/or the two concerned ISPs were identified as product sponsor(s) in the end credits of the concerned editions of the two programmes;
- (c) the OTT Service was provided by TVB.COM Limited, a wholly-owned subsidiary of TVB. When the OTT Service was launched on 18 April 2016, it offered 33 channels, including TVB’s five digital free TV channels, and 28 other thematic channels which were not available on TVB’s free TV service;
- (d) regarding the 16 editions of “Scoop” under complaint:
  - (i) nine editions featured interview segments with artistes, during which the artistes talked about their work while watching programmes broadcast on the OTT Service at home or in a studio;
  - (ii) one edition contained a segment featuring interviews with artistes participating in a variety show concerning the OTT Service;
  - (iii) four editions featured publicity events of one of the concerned ISPs (referred to hereafter as “ISP A”) for the OTT Service;
  - (iv) one edition featured the presentation of a gift (viz. a set-top box of the OTT Service) to a subscriber of the other ISP (referred to hereafter as “ISP B”); and

- (v) the remaining edition featured a ceremony celebrating ISP B's extension of its fibre network to certain villages;
- (e) a similar segment on ISP B's fibre network extension ceremony was found in the edition of "Extra" broadcast on 26 April 2016; and
- (f) TVB and TVBNV submitted that the concerned programmes were not intended to promote the OTT Service in an advertising context, instead the exposure of the product sponsor was in line with the nature of the concerned programmes as "infotainment" programmes.

***Relevant Provision in the TV Programme Code***

- (a) paragraph 1 of Chapter 11 – indirect advertising, which refers to the mingling of programme and advertising material or the embedding of advertising material within programme content, whether inadvertently or by design, is prohibited;

***Relevant Provisions in the TV Advertising Code***

- (a) paragraph 2(c) of Chapter 2 – for the purpose of this Code, the term advertisement or advertising material does not include material for the promotion of the licensee's station and/or programme services; and
- (b) paragraph 10(a) of Chapter 9 – the exposure or use of the sponsor's products and/or services within programmes 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 OTT Service broadcast a vast collection of video programmes and thematic channels which were not available on TVB's free TV service. It was operated by a separate company which was a subsidiary of TVB. In other words, the OTT Service and TVB's free TV service were separate services operated by different companies, and the OTT Service was not part of TVB's free TV service. The contents under complaint in relation to the OTT Service could not therefore be considered as material for the promotion of TVB's free TV service and be exempted from the definition of advertising material under paragraph 2(c) of Chapter 2 of the TV Advertising Code;
- (b) the references to the OTT Service, which was identified as a product sponsor in the programmes under complaint, should therefore be considered with reference to the provisions governing programme sponsorship and indirect advertising;
- (c) two editions of the programmes under complaint, namely the editions of "Scoop" broadcast on 19 April 2016 and 18 May 2016 on both the concerned channels of TVB and TVBNV, breached paragraph 10(a) of Chapter 9 of the TV Advertising Code and paragraph 1 of Chapter 11 of the TV Programme Code. In particular –
  - (i) in the edition of "Scoop" broadcast on 19 April 2016, there was a segment jointly sponsored by the OTT Service and ISP B, featuring the presentation of a set-top box of the OTT Service as a

gift to a subscriber of ISP B. A programme hostess made favourable remarks about the OTT Service, including with reference to its name (i.e. “氣勢強勁” (English translation: “the OTT Service is going strong”), “以後落嚟就可以隨時隨地又煲劇，又煲節目囉喎，係咪好開心先...yeah繼續睇電視，睇節目，好多好節目” (English translation: “Then you can watch dramas and other programmes whenever and wherever you like. Aren’t you happy? Yeah, let’s watch TV, watch programmes, many good programmes.”)). A staff member of ISP B was seen holding a placard bearing the logo of ISP B. The whole segment was a commercial promotional activity without inherent content in the context of an infotainment programme on showbiz news and social issues. The exposure of the concerned service product/service sponsors, including the hostess’ favourable remarks, was not clearly editorially justified, was obtrusive to viewing pleasure and gratuitous. It amounted to mingling of programme and advertising material and/or the embedding of advertising material within the programme content;

- (ii) in the edition of “Scoop” broadcast on 18 May 2016, there was a segment sponsored by the OTT Service featuring an interview with a female artiste in a studio. The artiste mentioned the name of the OTT Service and talked about how she downloaded its mobile app on her phone, followed by shots on a mobile phone showing the icon and user interface of the mobile app, and trailers of a drama. The male host invited viewers to download the mobile app of the OTT Service. The solicitation to download

the OTT Service's mobile app in this programme segment was gratuitous and not clearly justified editorially, and amounted to the mingling of programme and advertising material; and

- (d) in the other editions of the two programmes under complaint, there were brief discussions about the programmes and features broadcast on the OTT Service without mentioning its name, except once in the edition of "Extra" broadcast on 26 April 2016, when introducing the fibre network extension ceremony. Other than that, there were occasional shots of TV screens showing programmes broadcast on the OTT Service. The names and logos of the OTT Service and the two ISPs were also visible on the backdrop of publicity events. However, given that the OTT Service and/or the two ISPs were identified as the product sponsors of the concerned programmes, the presentation of the publicity events or variety show attended by the artistes, the interview with artistes about their work, and the distribution of free data SIM cards to members of the public were editorially justified in the concerned infotainment or entertainment programmes. Such references were not obtrusive to viewing pleasure and not gratuitous.

### **Decision**

In view of the above, the CA considered that the complaints in respect of the two editions of "Scoop" broadcast on 19 April 2016 and 18 May 2016 were justified. Having considered the relevant facts of the case including the severity of the breaches, the CA decided that TVB and TVBNV should be **warned** to observe more closely paragraph 1 of Chapter 11 of the TV Programme Code and paragraph 10(a) of Chapter 9 of the TV Advertising Code.

**Case 4 – Television Programmes “News Cast At 6” (6 點新聞報道) broadcast on the ViuTV Channel of HK Television Entertainment Company Limited (“HKTVE”) at 6:00 pm to 6:30 pm on 30 May, 2, 8, 10, 13, 21 and 22 June, 5 and 27 July, and 8 and 17 August 2016; and “News Cast At 8” (8 點新聞報道) broadcast on the same channel at 8:00 pm to 8:30 pm on 12 and 16 June 2016**

A member of the public complained against the captioned 13 editions of news programmes. The substance of the complaints was that no subtitles were provided for various news items in these news programmes, which violated the requirement on the provision of subtitles for news programmes.

### **The CA’s Findings**

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

#### *Details of the Case*

- (a) in the 13 editions of the news programmes under complaint, subtitles were provided when the alleged news items were introduced by anchors in studio, but no subtitles were provided in the detailed report of the alleged news items, except for remarks made by some interviewees in Putonghua or Cantonese in some of the news items. There were one to four such news items in each news programme under complaint, and the duration of the concerned news item ranged from 1 minute 12 seconds to 3 minutes 30 seconds; and
- (b) pursuant to Condition 3.1 of the First Schedule to HKTVE’s free TV licence, the CA had directed HKTVE to provide Chinese subtitles for

all news programmes broadcast on its integrated Chinese channel (viz. the ViuTV Channel) each day upon HKTVE's use of spectrum (which took effect on 2 April 2016), on top of a fixed network, as an additional means of transmission for the delivery of its licensed free TV service, as approved by the CA (the "CA's Direction"). As set out in the CA's Direction, HKTVE was not required to provide subtitles under certain circumstances where the provision of subtitles was not practicable due to technical constraints.

***Relevant Provisions in HKTVE's Free TV Licence***

- (a) Condition 3.1 of the First Schedule – The Licensee shall provide subtitling for its Service, as may be directed in writing by the CA from time to time after consultation with the Licensee.

**The CA's Considerations**

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

- (a) regarding the 10 editions of "News Cast at 6" in which HKTVE had admitted that there were inadvertent errors of its staff, HKTVE's repeated failures in providing subtitles in 10 editions of the news programme broadcast from late May to early August 2016 did not appear to be isolated incidents. The foregoing showed that HKTVE did not exercise due diligence in ensuring compliance with the subtitling requirement for news programmes. The lapses were clear breaches of the concerned licence requirement applicable to HKTVE's free TV service;

- (b) for “News Cast at 8” broadcast on 12 June 2016, the CA took note of HKTVE’s submission that the news updates of the two overseas incidents emerged very close to the scheduled broadcast time of the news programmes. Nevertheless, the CA noted that the concerned incidents happened several hours before the broadcast of the concerned news programme. The CA considered that the reason put forth by HKTVE for the omission of subtitles did not fall within the scope of circumstances for exemption to provide subtitles in news programmes as set out in the CA’s Direction. Therefore, HKTVE had breached the relevant licence condition in this news programme; and
- (c) as regards the remaining two editions of the news programmes, namely “News Cast at 8” broadcast on 16 June 2016 and “News Cast at 6” broadcast on 17 August 2016, the CA noted HKTVE’s explanation that the alleged news items in these two news programmes covered events which took place within one hour of the broadcast. The CA considered that the reason put forth by HKTVE for the omissions of subtitles in these two news programmes fell within the scope of circumstances for exemption to provide subtitles in news programmes, which included broadcasts covering events within one hour of the broadcast, as set out in the CA’s Direction. Given that the timing of the concerned local press conference/event was rather close to the commencement time of the two news programmes in question, there was insufficient evidence that HKTVE had breached the relevant licence requirement in these two programmes.

## **Decision**

In view of the above, the CA considered that the complaints regarding **11 editions of the news programmes** (viz. “News Cast at 6” broadcast on 30 May, 2, 8, 10, 13, 21 and 22 June, 5 and 27 July, and 8 August 2016, and “News Cast at 8” broadcast on 12 June 2016) were justified and there was a breach of the licence requirement on provision of subtitling in news programmes. Taking into account that HKTVE was a new free TV licensee, the CA decided that HKTVE should be **advised** to observe more closely Condition 3.1 of the First Schedule to its free TV licence.

**Case 5 – Television Programme “City Forum” (城市論壇) of Radio Television Hong Kong (“RTHK”) broadcast on the Jade Channel of TVB and the RTHK TV 31 and 31A Channels at 12:05 pm to 1:00 pm on 19 June 2016, and reruns on the RTHK TV 31 and 31A Channels at 6:00 pm to 6:55 pm on the same day**

A member of the public complained that a spectator on the floor uttered a foul expression and a coarse expression in the forum, which should not be broadcast.

**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 a public forum on current affairs broadcast live on TVB Jade, RTHK TV 31 and TV 31A outside the family viewing hours (“FVH”), and rerun on the two RTHK TV channels within the FVH on the same day;
- (b) during the livecast of the forum at 12:36 pm, while a secondary student was expressing her views on the discussion topic, a male spectator on the floor suddenly shouted and interrupted her speech. Despite the host’s warning, the concerned spectator kept shouting. Having heard the spectator’s utterance of offensive expressions, the host immediately requested staff members to invite him to leave the forum. The



remarks with the alleged expressions uttered by the spectator were heard when staff members were escorting him to leave; and

- (c) the above remarks carrying the concerned expressions were included in the programme rerun on the two RTHK TV channels at 6:33 pm within the FVH on the same day.

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

- (a) paragraph 5 of Chapter 4 – expressions which may still be considered offensive by the average viewers should not be used within the FVH. At other times, they should be presented with discretion and in moderation; and
- (b) paragraph 6 of Chapter 4 – downright offensive expressions and obscene or profane language are prohibited.

**The CA's Considerations**

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

- (a) the concerned coarse expression was an offensive expression to the average viewers of the public forum and the concerned foul expression was a downright offensive expression which should not be broadcast on free TV services. Both expressions were clearly audible during the livecast and the rerun of the programme; and
- (b) although the host had taken actions to mitigate the situation and it could be difficult for RTHK to stop the airing of the offensive expressions uttered by the concerned spectator during the livecast, the broadcast of

the concerned expressions in the rerun during the FVH reflected that RTHK had not taken adequate steps to ensure compliance with the relevant provisions of the TV Programme Code.

### **Decision**

In view of the above, the CA considered that the complaint was justified and decided that RTHK should be **advised** to observe more closely paragraphs 5 and 6 of Chapter 4 of the TV Programme Code.

**Case 6 – Radio Programme “eZone” (e 線金融網) broadcast on the Putonghua Channel of RTHK at 4:00 pm to 6:00 pm on 21 July 2016**

A member of the public complained that a guest uttered a foul expression during the programme.

**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 a financial programme;
- (b) in a telephone interview, a stock market commentator expressed his frustration about some people’s grievance against him for having given investment advice that led to losses. In passing, he mentioned that people were reluctant to pay for investment talks and uttered a Cantonese foul expression in his remark; and
- (c) RTHK admitted that the stock market commentator had uttered the alleged foul expression softly, which was not perceived by the host.

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

paragraph 15 – expressions considered vulgar or unacceptable by an average person are to be avoided. Expressions that are definitely offensive are prohibited from use on radio.

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

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

- (a) the concerned Cantonese foul expression, though uttered in a light and swift manner, was audible. It was a downright offensive expression which was unacceptable for broadcast on radio at all times; and
- (b) it seemed that the concerned foul expression was uttered unintentionally by the concerned commentator. Nonetheless, it was the responsibility of RTHK to ensure that all its radio programmes should comply with the relevant provision of the Radio Programme Code.

### **Decision**

In view of the above, the CA considered that the complaint was justified and decided that RTHK should be **advised** to observe more closely paragraph 15 of the Radio Programme Code.