

Case 12 – Radio Programme “Open Line Open View” (自由風自由Phone) broadcast on the Radio 1 Channel of Radio Television Hong Kong (“RTHK”) from 5:00pm to 8:00pm on 24 October 2019

426 members of the public complained about the captioned programme. The main allegations were that –

- (a) in a segment entitled “有人發起香港加泰人權自由集會” (“The organisation of the Hong Kong-Catalonia Solidarity Assembly”) (the “segment”), the remarks made by a commentator and a guest, who was the organiser of an assembly held in the evening of 24 October 2019 (the “assembly”), were partial, distorted facts, advocated the independence of Hong Kong, and defamed and incited hatred against the Hong Kong Police Force (“the Police”) by exaggerating the force used by the Police in its operations in recent protests; and
- (b) the presentation of the segment concerned violated the public purposes and mission of RTHK as set out in the Charter of Radio Television Hong Kong (“the Charter”), which required RTHK, as a public service broadcaster in Hong Kong, to promote understanding of our community, our nation and the world through accurate and impartial news, information, perspectives and analyses, etc.

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 –

Details of the Case

- (a) the programme under complaint, which contained the segment, was identified as a personal view programme (“PVP”);
- (b) speaking of the assembly, a programme host and the commentator remarked that the assembly invited controversy. They said, among others, that some netizens expressed concern that a high profile support of the Catalan protests in the assembly might create an impression that the protesters in Hong Kong were advocating Hong Kong independence. The host remarked that according to some media reports, the Catalan protesters were not so much protesting in support of Catalan independence as protesting against the alleged violence of the Catalan police. This was followed by the commentator’s remark “亦都有好多唔同嘅輿論都有嘗試比較過，就好似話其實加泰羅尼亞嗰邊嘅一啲示威其實係反而學咗近呢幾個月香港嗰啲嘅示威模式呀” (“there were different public opinions that the Catalan protesters were in fact modelling on the tactics recently used by the protesters in Hong Kong”) and a telephone interview with a guest, the organiser of the assembly;

- (c) in responding to the netizens' concerns cited by the host and the commentator, the guest explained in the telephone interview that the purpose of the assembly was not to support the Catalan independence movement, but to protest against what he perceived to be violations of human rights and police brutality in Catalonia, and allow the participants to contemplate the problems the Catalans were facing. The guest drew an analogy between the recent incidents in Hong Kong and Catalonia and claimed that there were many similarities in the recent incidents in both places, in particular the use of force by the police force of the two places. Near the end of the telephone interview, the guest remarked that while he could not prevent any participants in the assembly from advocating Hong Kong independence, such views did not represent the position of the assembly;
- (d) after the telephone interview with the guest, the commentator concluded that the assembly would seem to be uncontroversial if its organiser could uphold the principles and position as expressed in (c) above and focus on the matters relating to the alleged violations of human rights and police brutality in Catalonia. He also mentioned, among others, that although the guest had repeatedly claimed that there was “無大台” in the assembly (i.e. that the assembly had a highly decentralised leadership), the guest, as the organiser of the assembly, held the responsibility of reminding the participants of the purposes of the assembly and the principles advocated by the organiser of the assembly so as to avoid possible public misunderstanding; and
- (e) RTHK submitted, among others, that the focus of the discussion in the segment concerned was the controversy of the assembly, but not the appropriateness of the force used by the Police. During the discussion, both the guest and the commentator did provide abundant viewpoints of various parties (such as netizens, academics on international relations and opinion leaders) from different perspectives. There was also no evidence that the discussion therein advocated the independence of Hong Kong, and defamed and incited hatred against the Police.

Relevant Provisions in the Radio Code of Practice on Programme Standards

- (a) paragraph 7(b) – licensees should not include in its programmes any material which is likely to encourage hatred against or fear of, and / or considered to be denigrating or insulting to any person(s) or group(s) on the basis of, among others, social status;
- (b) paragraph 20A – licensees shall make reasonable efforts to ensure that the factual contents of PVPs are accurate; and
- (c) paragraph 36(b), (c) & (d) – for all PVPs on matters of public policy or controversial issues of public importance in Hong Kong, facts must be respected and the opinion expressed, however partial, should not rest upon false evidence; 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 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 including the information submitted by RTHK, considered that –

Accuracy and Impartiality

- (a) the programme under complaint was identified as a PVP and the topics discussed therein concerned matters/issues of public importance in Hong Kong. Therefore, the relevant rules governing PVPs are applicable to the present case;
- (b) the segment under complaint discussed the controversy of the assembly and mainly contained comments or personal opinions expressed by the host / guest on the issues relating thereto. According to media reports submitted by RTHK, there had indeed been discussions and comments in the media comparing the incidents in Hong Kong and Catalonia. The remark “我哋係譴責一切嘅警察暴力，特別係針對和平示威者嘅暴力啦” (“We condemn all sorts of police brutality, especially police brutality against peaceful demonstrators”) was made by the guest, the organiser of the assembly, in the context of explaining the purpose of the assembly to the programme host. Nonetheless, there was no further elaboration or details of any of the accusations of violence of the Police throughout the segment;
- (c) as for the allegation concerning advocacy of independence of Hong Kong, the guest had clarified in the telephone interview that the purpose of the assembly was not to advocate the independence of Hong Kong. The views / comments expressed in the programme had not specifically advocated the independence of Hong Kong *per se*, although the guest, in the context of explaining the situation of Catalonia, did express “...同香港近嚟自決派嘅講法完全一樣，呢個 right to self-determination，呢個自決嘅權利其實就係聯合國賦予嘅...任何地方嘅人民絕對有佢嘅權力決定佢自己嘅未來，一個人民作為一個人有權決定自己嘅未來...” (“As advocated by pro-self-determination groups recently, the right to self-determination which was granted by the United Nations provides that the people of any locality are absolutely empowered to determine their future. The people, as humans, are empowered to determine their future.”) which might be interpreted by some as advocating the same. In the segment, the host and the commentator made an effort to raise pertinent questions (including prompting the guest to clarify some issues about the controversy over the assembly) and to cite the opposing views on the Catalan independence movement, etc.;
- (d) in view of the above, there was insufficient evidence to conclude that the programme under complaint had breached the relevant provisions governing PVPs;

Incitement of Hatred

- (e) there was no elaboration or details of any of the accusations of violence of the Police throughout the segment. It was unlikely that the brief remarks concerned could be considered as inciting hatred against the Police; and

Compliance with the Charter

- (f) according to the Charter, RTHK should ensure that all television and radio programmes broadcast by it should comply with the relevant codes of practice issued by the CA. While the CA should investigate all complaints received by it against RTHK programmes and might impose appropriate sanction on RTHK if the complaints were found to be in breach of the relevant codes of practice, the matter of whether RTHK's programmes complied with the Charter (including fulfillment of its purposes and mission) was outside the jurisdiction of the CA.

Decision

In view of the above, the CA considered the complaints **unsubstantiated** and decided that **no further action** should be taken against RTHK.