

Case 15 – Television Programmes “Pentaprism” (左右紅藍綠) broadcast from 2:00pm to 2:05pm on 4 September, 7 & 15 October and 13 November 2019 on RTHK TV 31 and RTHK TV 31A Channels of Radio Television Hong Kong (RTHK)

One complaint was received about four editions of the captioned programme, namely the editions broadcast on 4 September 2019 (the “4 September Edition”), 7 October 2019 (the “7 October Edition”), 15 October 2019 (the “15 October Edition”) and 13 November 2019 (the “13 November Edition”) (collectively, “the Four Editions”). The main allegations were that the remarks of the hosts of the Four Editions on the Police’s enforcement actions in recent social events were partial, one-sided and made sweeping generalisations, and the Police had not been given a suitable opportunity to respond in the programme or at other times.

The Communications Authority (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) each of the Four Editions was five minutes in duration, and was identified as a personal view programme (PVP);
- (b) the 4 September Edition revolved around the incident in the MTR Prince Edward Station on 31 August 2019. Against news clips, photos and footages from the Internet, the host recounted the incident and commented on the Police’s enforcement actions in the incident and other recent social events;
- (c) the 7 October Edition revolved around the incident in Tsuen Wan on 1 October 2019. The host briefly recounted the incident, accompanied by relevant footages, and commented on the Police’s response to the incident and the Police’s enforcement actions in the incident and other recent social events;
- (d) the 15 October Edition revolved around the incident in Ma On Shan and the arrests made by the Police on 7 and 9 October 2019 respectively. The host recounted the incident, expressed her anger at and commented on the arrests made by the Police;
- (e) the 13 November Edition revolved around the incidents in Sai Wan Ho and Kwai Fong on 11 November 2019. Accompanied by relevant footages, the host recounted the incidents and commented on the Police’s enforcement actions in the incidents; and
- (f) the Four Editions did not contain any responses from the Police with regard to the comments or views of the host concerned on the issues / events under discussion.

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

- (a) 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 organisations and take all reasonable care to satisfy themselves that all material facts are so far as possible fairly and accurately presented;
- (b) Paragraph 16 of Chapter 9 – where a factual programme reveals evidence of iniquity or incompetence, or contains a damaging critique of an individual or organisation, those criticised should be given an appropriate and timely opportunity to respond; and
- (c) Paragraphs 17(c) and (d) of Chapter 9 – for all PVPs on matters of public policy or controversial issues of public importance in Hong Kong, 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 Consideration

The CA, having regard to the relevant facts of the case including the information submitted by RTHK, considered that –

- (a) each of the Four Editions was identified as a PVP and the topic discussed therein concerned matters/issues of public importance in Hong Kong. The Four Editions contained comments/criticisms made by the hosts concerned on the Police's enforcement actions in recent social events, which were presented and identified as his/her personal opinions;

Suitable Opportunity for Response

- (b) although RTHK submitted that its current affairs programmes had separately invited the Police for interview or response, RTHK did not state whether it had approached the Police for response to the particular comments made by the hosts of the Four Editions. As regards RTHK's submission that "Pentaprism" was produced under a tight schedule, meeting any production deadlines self-imposed by RTHK itself could not serve as a justification for the breach of the provision of giving a suitable opportunity for response in the TV Programme Code;
- (c) RTHK submitted that it had broadcast the Police's response on the incidents concerned in similar types of programmes targeting a like audience within an appropriate period of time on the RTHK TV 31 Channel. However, the broadcast of the Police's statements or replies to media enquiries before the broadcast of the Four Editions cannot be treated as giving the Police a chance to respond to the specific comments raised by the hosts of the Four Editions nor regarded as fulfilling the requirement in paragraph 17(c) of Chapter 9 of the TV Programme Code;

- (d) given the above, the CA considered that RTHK failed to provide a suitable opportunity for response to the comments made by the hosts of the Four Editions on the specific incidents discussed in the same programme, in the same series of programmes or in similar types of programmes targeting a like audience within an appropriate period, as required under paragraph 17(c) of Chapter 9 of the TV Programme Code;

Broad Range of Views in PVPs

- (e) RTHK submitted that a number of its other programmes contained the Police's factual account or response to media enquiries on the events/issues mentioned by the hosts of the Four Editions. However, none of these programmes cited by RTHK were identified as a PVP. Also, while RTHK submitted that from June 2019 onwards, opinion leaders from opposing camps had been invited to give comments on various issues, no broad range of views on the particular events/issues discussed in the Four Editions were expressed. RTHK accordingly failed to fulfil the requirement under paragraph 17(d) of Chapter 9 of the TV Programme Code;

Right of Reply

The 4 September Edition

- (f) while the host's criticism of the Police's enforcement actions might affect reputation, the relevant material facts were generally not unfairly presented. Nonetheless, while the edition contained a damaging critique, there was no evidence suggesting that the criticised party had been given an appropriate and timely opportunity to respond;

The 7 October Edition

- (g) the host made criticisms on the Police's explanation on its enforcement actions which might affect reputation. However, a basic and crucial material fact in relation to the Police's explanation was omitted in the edition. Hence, the relevant material facts were not fairly presented. Also, while the edition contained a damaging critique, there was no evidence suggesting that the criticised party had been given an appropriate and timely opportunity to respond;

The 15 October Edition

- (h) the host made accusations on the Police's enforcement actions and impugned the motive of the operations which could affect reputation. However, the brief footage broadcast in the edition did not actually show anything which could support the accusation, and a crucial material fact was omitted. Also, while the edition contained a damaging critique, there was no evidence suggesting that the criticised party had been given an appropriate and timely opportunity to respond;

The 13 November Edition

- (i) the host made serious accusations against two police officers capable of affecting reputation. However, no material facts were presented to support the accusations. Also, while the edition contained a damaging critique, there was no evidence suggesting that the criticised party had been given an appropriate and timely opportunity to respond.

Decision

In view of the above, the CA considered that the complaint was **justified**. RTHK was in breach of paragraphs 16, 17(c) and 17(d) of Chapter 9 of the TV Programme Code for the broadcast of the 4 September Edition, and was in breach of paragraphs 15, 16, 17(c) and 17(d) of Chapter 9 of the TV Programme Code for the broadcast of the other three editions under complaint. Taking into consideration the specific facts of the present complaint and other relevant factors, the CA decided that RTHK should be **warned** to observe more closely the relevant provisions of the TV Programme Code.