

Case 17 – Television Programme “Another Hong Kong” (另一個香港) broadcast from 7:30pm to 8:30pm on 23 May 2020 on TVB Finance and Information Channel of Television Broadcasts Limited (TVB); 7:00pm to 7:45pm on 23 and 24 May 2020 on now Business News Channel of PCCW Media Limited (now TV); 5:00pm to 6:30pm on 30 May 2020, and 8:00pm to 9:30pm on 31 May 2020 on i-Cable Finance Info Channel of Hong Kong Cable Television Limited (HKCTV); and 10:30pm to 11:15pm on 15 and 16 June 2020 on RTHK TV 33 of Radio Television Hong Kong (RTHK)

1 904 complaints were received about the captioned television programme. The major allegations were that the programme –

- (a) was partial towards the Government, officials, the Police and the pro-establishment camp and against local and foreign media, peaceful protesters and the general public;
- (b) contained material facts which were not fairly and accurately presented;
- (c) was capable of adversely affecting the reputation of some individuals and organisations but those being criticised were not given an appropriate and timely opportunity to respond;
- (d) denigrated and incited hatred towards certain groups of people; and
- (e) was not suitable for broadcast in the family viewing hours (FVH), was offensive and of bad taste, contained violent materials and promoted violence.

The Communications Authority (CA)’s Findings

In line with the established practice, the CA considered the complaint case and the representations of TVB, now TV, HKCTV and 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 two-part documentary produced on the Mainland by China Media Group (CMG) (中央廣播電視總台). Part 1 of the documentary presented an analysis of the background of last year’s social events and protests, how the protests became violent and the impact on society. Part 2 of the documentary presented an analysis of the causes of last year’s social events and protests from the perspectives prevalent on the Mainland;
- (b) TVB did not broadcast Part 1 of the documentary. It packaged Part 2 of the documentary with a brief introduction and a subsequent interview with a guest. The caption “中央電視台製作” was superimposed on the top left corner of the screen throughout the documentary (except the introduction and interview parts produced by TVB) to acknowledge the source of the documentary. The host had also mentioned several times that the documentary was a China Central Television (CCTV) production;

- (c) on now TV, HKCTV and RTHK, both parts of the documentary were broadcast, and a flip card bearing “中央廣播電視總台”, the title of CMG, was shown at the end of both parts of the programme; and
- (d) in the case of RTHK, the programme was broadcast on the RTHK TV 33 Channel, a channel that relayed the live feed of China Central Television Channel 1 (CCTV-1).

Relevant Provisions in the Generic Code of Practice on Television Programme Standards (TV Programme Code) and the Broadcasting Ordinance (Cap. 562) (BO)

TV Programme Code

- (a) Paragraph 2 of Chapter 2 – the FVH are determined as the period between the hours of 4:00p.m. and 8:30p.m. on any day, during which time nothing which is unsuitable for children should be shown;
- (b) Paragraph 1 of Chapter 3 - licensees should ensure that their programmes are handled in a responsible manner and should avoid needlessly offending audiences by what they broadcast;
- (c) Paragraphs 2(b) & (c) of Chapter 3 - a licensee 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, age or social status; and anything which is in contravention of the law;
- (d) Paragraph 5 of Chapter 3 - crime should not be portrayed in a favourable light and criminal activities should not be presented as acceptable behaviour, nor should criminals be glorified;
- (e) Paragraph 1A of Chapter 9 - the licensees shall make reasonable efforts to ensure that the factual contents of, among others, current affairs programmes and documentaries are accurate;
- (f) Paragraph 2 of Chapter 9 - the licensees must ensure that due impartiality is preserved as respects of any factual programmes or segments thereof dealing with matters of public policy or controversial issues of public importance in Hong Kong;
- (g) Paragraph 3 of Chapter 9 - due impartiality requires the licensees to deal even-handedly when opposing points of view are presented in a programme or programme segment. Balance should be sought through the presentation, as far as possible, of principal relevant viewpoints on matters of public importance. Programmes or programme segments under concern should not be slanted by the concealment of facts or by misleading emphasis;
- (h) Paragraph 4 of Chapter 9 - in achieving due impartiality, the term “due” is to be interpreted as meaning adequate or appropriate to the nature of the subject and the

type of programme or programme segment;

- (i) Paragraph 5 of Chapter 9 - a programme host should encourage the widest possible airing of views;
- (j) Paragraph 6 of Chapter 9 - the licensee should exercise editorial judgement in achieving impartiality over time;
- (k) 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;
- (l) 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; and
- (m) 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

BO

- (n) Section 12 of Schedule 4 – a licensee shall not include in its service any advertisement of, among others, a political nature.

The CA's Consideration

The CA, having regard to the relevant facts of the case including the information submitted by TVB, now TV, HKCTV and RTHK, noted that –

- (a) this is the first time that the CA considers complaints concerning impartiality and fairness of factual programmes not produced locally on controversial issues of public importance in Hong Kong;
- (b) under the present regulatory framework, broadcasters are generally responsible for ensuring that the contents of acquired programmes/channels are in compliance with the TV Programme Code irrespective of the source and place of origin of the programmes/channels;
- (c) according to the Preamble of the TV Programme Code, the Code only deals with general principles and judgement will also be called for by the licensees. The applicability of the provisions in the Code will vary with the type of programme and it is important to consider the expectations that viewers have of particular programmes; much will depend on context and account should be taken of the target audience and the circumstances in which the programmes are shown. The merits of the programme will also be a consideration of the CA when forming a

view on the acceptability of any programme material. The provisions set out in the Code have to be applied in spirit as well as in letter and should be read in conjunction with the relevant legislation and licence conditions. This approach has all along been adopted by CA in handling broadcast complaints;

- (d) if the provisions of the TV Programme Code were to be strictly applied in the present case as if the programme had been a locally produced factual programme over which the broadcasters had complete control, the programme could touch on the rules on impartiality, accuracy, fairness and right of reply in different degrees. However, taken into account the relevant general principles set out in the Preamble of the TV Programme Code, the level of control of the broadcasters over the programme and the merits of broadcasting the programme would be relevant in the assessment of the present case;

Broadcasters' Control over Acquired Programmes

- (e) the programme was broadcast on the CCTV-1 Channel which is transmitted by the RTHK TV 33 and RTHK TV 33A Channels in fulfillment of its obligation as a public service broadcaster to provide for relay of national broadcasting pursuant to the Charter of RTHK, and RTHK has no editorial control over CCTV-1's contents;
- (f) in the case of TVB, now TV, HKCTV, the CA was of the view that –
 - (i) since acquired/relayed programmes were unlikely to target primarily or exclusively audience in Hong Kong, it was unreasonable and unrealistic to impose an obligation on local broadcasters to procure the non-local productions with the contents of the programme tailor-made to fully comply with the regulatory requirements in Hong Kong;
 - (ii) it was infeasible for local broadcasters to require suppliers of the acquired/relayed programmes to substantiate the factual accuracy of the broadcast materials, to reveal or verify their sources of information, to include alternative viewpoints, and to give those criticised an opportunity to respond; and
 - (iii) it was too onerous for local broadcasters to make substantial editorial changes to the contents of acquired/relayed factual programmes as it would seriously undermine the integrity of the programmes and the purpose of broadcasting the programmes, which was often for presenting different viewpoints from other parts of the world to the local viewers;

Merits of the programme

- (g) there is value for local viewers to be exposed to the views from other parts of the world on important public issues, especially their perceptions of Hong Kong and of major events in Hong Kong. In the present case, the programme provided viewers with the views prevalent on the Mainland on last year's social events in Hong Kong;

- (h) it was not uncommon for renowned broadcasters in other places, many of which have programmes currently relayed in full by local broadcasters, to have their own stance on the matters they covered. The programming choice of Hong Kong audience would be greatly reduced if the rules on impartiality and fairness were enforced strictly on acquired factual programmes/channels as it would discourage broadcasters from sourcing factual programmes/channels produced elsewhere given the risk of breaching the TV Programme Code when broadcasting these programmes/channels;
- (i) to retain programme diversity without unnecessarily offend viewers, it was crucial for viewers to be fully informed of the origin of acquired/relayed factual programmes on controversial issues of public importance in Hong Kong, so that they knew what to expect and could make their own assessment of the information and messages contained in those programmes; and
- (j) in the present case, it would be preferable for now TV and HKCTV to explicitly announce that the programme was produced by CCTV prior to the start of the programme, instead of showing the source of the programme at the end. As TVB only broadcast Part 2 of the documentary, it would be preferable for it to inform viewers the existence of Part 1 of the documentary so that viewers could, if they wish, view Part 1 through other sources.

Decision

In view of the above and taking into account the general principles in the Preamble of the TV Programme Code, the specific facts and relevant circumstances of the case, including RTHK's obligation as a public broadcaster to relay the live feed signal from CCTV-1 without discretion, that the broadcasters had little control of the contents of the programme and the merits of the programme etc., the CA considered that the complaints were **unjustified**. At the same time, the CA considered that there is scope to improve the identification of the source of acquired/relayed factual programmes on controversial issues of public importance in Hong Kong to help viewers in making decisions in their choice of programmes and in forming their expectations and judgements. The CA suggested that TVB could inform viewers of the existence of other parts of such programmes which were not broadcast on its service, and that now TV and HKCTV should provide sufficient information about the source of such programmes in a prominent manner prior to their broadcast.